

## FRANCHISE DISCLOSURE DOCUMENT



**Mobile Coffee Company, LLC**  
A Delaware limited liability company  
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Florence, Kentucky 41042  
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Travelin' Tom's Coffee franchisees operate mobile businesses providing coffees, teas, and related products to the general public ("Travelin' Tom's Business(es)").

The total investment necessary to begin operation of a Travelin' Tom's Coffee franchised business is between \$191,120201,620 and \$246,325259,625. This includes between \$188,950199,450 and \$209,675230,175 that must be paid to the franchisor or its affiliates.

Travelin' Tom's Business area developers acquire the right to develop multiple Travelin' Tom's Businesses in a designated development area. The total investment necessary to begin operation as an area developer with two Travelin' Tom's Businesses is between \$403,240 and \$519,250. This includes between \$398,900 and \$460,350 that must be paid to the franchisor or its affiliate(s). The total investment necessary to begin operation as an area developer with three Travelin' Tom's Businesses is between \$604,860 and \$778,875. This includes between \$598,350 and \$690,525 that must be paid to the franchisor or its affiliate(s).

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Tony Lamb, 5945 Centennial Circle, Florence, Kentucky 41042 or at 1-800-566-2423.

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

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

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

**ISSUANCE DATE: April 20, ~~2023~~18, 2024**

## How to Use This Franchise Disclosure Document

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

QUESTION	WHERE TO FIND INFORMATION
<b>How much can I earn?</b>	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit FG.
<b>How much will I need to invest?</b>	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit B includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only Travelin' Tom's Business in my area?</b>	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What's it like to be a Travelin' Tom's Coffee franchisee?</b>	Item 20 or Exhibit FG lists current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

## What You Need To Know About Franchising *Generally*

**Continuing responsibility to pay fees.** You may have to pay royalties and other fees even if you are losing money.

**Business model can change.** The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

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

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

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

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

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

## Some States Require Registration

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

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



## Special Risks to Consider About *This* Franchise

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in Kentucky. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Kentucky than in your own state.
2. **Spousal Liability.** Your spouse must sign a document that makes your spouse liable for all financial obligations under the franchise agreement even though your spouse has no ownership interest in the franchise. This guarantee will place both your and your spouse's marital and personal assets, perhaps including your house, at risk if your franchise fails.
3. **Mandatory Minimum Payments.** You must make minimum royalty or advertising fund payments regardless of your sales levels. Your inability to make payments may result in termination of your franchise and loss of your investment.
4. **Financial Condition.** The Franchisor's financial condition as reflected in its financial statements (See Item 21) calls into question the Franchisor's financial ability to provide services and support to you.
5. **Short Operating History.** The franchisor is at an early stage of development and has a limited operating history. This franchise is likely to be a riskier investment than a franchise in a system with a longer operating history.
6. **Unregistered Trademark.** The primary trademark that you will use in your business is not federally registered. If the franchisor's right to use this trademark in your area is challenged, you may have to identify your business and its products or services with a name that differs from that used by other franchisees or the franchisor. This change can be expensive and may reduce brand recognition of the products or services you offer.
7. **Supplier Control.** You must purchase all or nearly all of the inventory or supplies that are necessary to operate your business from the franchisor, its affiliates, or suppliers that the franchisor designates, at prices the franchisor or they set. These prices may be higher than prices you could obtain elsewhere for the same or similar goods. This may reduce the anticipated profit of your franchise business.

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.

**NOTICE REQUIRED BY  
STATE OF MICHIGAN**

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

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

- (a) A prohibition on the right of a franchisee to join an association of franchisees.
- (b) A requirement that the 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 terms 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 six (6) months advance notice of 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 or 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 subfranchisor.

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

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

(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 there is a notice of this offering on file with the attorney general does not constitute approval, recommendation, or endorsement by the attorney general.**

Any questions regarding this notice should be directed to the Department of Attorney General, State of Michigan, 670 Williams Building, Lansing, Michigan 48913, telephone (517) 373-7117.

**THE MICHIGAN NOTICE APPLIES ONLY TO FRANCHISEES WHO ARE RESIDENTS OF MICHIGAN OR LOCATE THEIR FRANCHISES IN MICHIGAN.**

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### EXHIBITS:

Exhibit A	State Administrators/Agents for Service of Process
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Exhibit C	Franchise Agreement
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Exhibit F	Brand Manual Table of Contents
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**ITEM 1**  
**THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS AND AFFILIATES**

To simplify the language in this Franchise Disclosure Document, “MCC,” “we,” “us,” and “our” means Mobile Coffee Company, LLC, the franchisor. “You,” “your,” and “Franchisee” means the business entity and its owners that buys the franchise from Mobile Coffee Company, LLC

The Franchisor

Mobile Coffee Company, LLC is a Delaware limited liability company formed on January 20, 2021. We operate under the name Mobile Coffee Company, LLC and Travelin’ Tom’s Coffee and no other name. Our principal business address is 5945 Centennial Circle, Florence, Kentucky 41042. We began offering Travelin’ Tom’s Coffee franchises in April 2021. We operate Travelin’ Tom’s Businesses similar to the type being offered and have done so since 2020. Except as described above, we have not engaged in or offered franchises in any other line of business.

Parent, Predecessors and Affiliates

We have several parent companies (our “Parents”).

——— MCC is a wholly-owned subsidiary of Mobile Coffee Company Intermediate Holdings, LLC, which is a wholly-owned subsidiary of Kona Ice Ultimate Holdings, LLC. Our Parents share our principal business address.

Our affiliate, TMJ Insurance, LLC (“Kona Insurance”) offers comprehensive property and casualty insurance to our franchisees. Kona Insurance shares our principal business address.

Our affiliate, KonaOS Holdings, LLC (“Kona Software Affiliate”), offers software for our franchisees. Kona Software Affiliate shares our principal business address.

Our affiliate, Kona Ice, Inc. (“Affiliate Franchisor”) shares our principal business address. Affiliate Franchisor has offered and sold Kona Ice franchises since 2008. Kona Ice franchises operate mobile businesses that sell flavored shaved ice, ice cream, and related products. As of December 31, ~~2023~~2022, Affiliate Franchisor had no corporate locations and 1,484~~670~~ franchise locations. Under certain circumstances, existing Kona Ice franchisees may be granted a right to purchase a territory to which they currently have rights under an executed franchise agreement with Affiliate Franchisor (See Item 12). Affiliate Franchisor is not engaged in any other business activity and has not offered or sold franchises in any other line of business.

Except for Affiliate Franchisor, our affiliates do not and have not offered franchises in this or any line of business.

We do not have any predecessors.

Our agent for service of process in Delaware is The Corporation Trust Company, Corporation Trust Center 1209 Orange St., Wilmington, Delaware 19801. Our other agents for service of process are disclosed on Exhibit A. If a state is not listed, we have not appointed an agent for service of process in that state in connection with the requirements of franchise laws. There may be states in addition to those listed above

in which we have appointed an agent for service of process. There may also be additional agents appointed in some of the states listed.

### The Franchise

We offer franchises (“Travelin’ Tom’s Coffee Franchise(s)” or “Franchise(s)”) for the use of our “Travelin’ Tom’s Coffee” trademarks, trade names, service marks, and logos (“Marks”) for the operation of Travelin’ Tom’s Businesses. Travelin’ Tom’s Businesses are operated under our proprietary Travelin’ Tom’s Coffee system (“System”). The System may be changed or modified by us throughout your ownership of the Franchise. Travelin’ Tom’s Businesses operate mobile businesses which includes our proprietary Travelin’ Tom’s Coffee mobile truck, known as the “Beverage Entertainment Vehicle” or (“BEV”) with the patented “Creation Station Self-Service System” (U.S. Patent Number 8,157,136), and other mobile units that sell coffees, teas, and related products. Customers can also book the BEV or other mobile units for various events, including fundraising events, sports leagues, school events or sports, festivals and fairs, birthday parties, corporate events, picnics, church events, block parties, daycares and preschools, etc. You must use the BEV only for the operation of the Travelin’ Tom’s Business and only to sell the products that we authorize. ~~While most~~We may allow certain franchisees to operate an additional Travelin’ Tom’s Business are mobile, some may be operated at a fixed locations with our written approvalallocation within their territory (“Fixed Location Business”). Franchisees will sign the then-current Fixed Location Amendment, a sample is attached to this Franchise Disclosure Document in Exhibit I.

You must sign our standard franchise agreement attached to this Franchise Disclosure Document as Exhibit C (“Franchise Agreement”). You must operate one BEV per Franchise Agreement. Each Franchise will be granted an exclusive territory which will be described in the Franchise Agreement (“Protected Territory”). Your Travelin’ Tom’s Business must offer only those services and products that we have authorized. We reserve the right to add, modify, or delete any services or products that you must offer or sell at your Travelin’ Tom’s Business at any time at our sole discretion. If you reserve an additional Franchise and territory under an “Additional Franchise Reservation Agreement” you will sign our then-current franchise agreement which may be materially different from the Franchise Agreement attached to this Franchise Disclosure Document.

We also offer to select qualified persons (“Area Developers”) the opportunity to sign our area development agreement (“Area Development Agreement”) attached to this Franchise Disclosure Document as Exhibit D and acquire the right to develop multiple Travelin’ Tom’s Businesses in a designated development area (“Development Territory”) in accordance with a specified development schedule (“Development Schedule”). The Development Territory will be established based on the consumer demographics of the Development Territory, geographical area, city, county and other boundaries. If you enter into an Area Development Agreement, you must sign a Franchise Agreement for your first Travelin’ Tom’s Business (“Initial Franchise Agreement”) at the same time that you sign the Area Development Agreement. You will be required to sign our then-current form of Travelin’ Tom’s Franchise Agreement, which may differ from the current Franchise Agreement included with this Franchise Disclosure Document for each Travelin’ Tom’s Business that you develop under the Area Development Agreement. Unless otherwise stated, any reference in this Franchise Disclosure Document to “you” or “franchisee” includes you both as an Area Developer under an Area Development Agreement and as a franchisee under a Franchise Agreement.

Existing franchisees also have the option to purchase other Travelin’ Tom’s Coffee equipment (“Additional Equipment”), as ~~such equipment~~it becomes available. Franchisees may only use Additional



Equipment in their Protected Territory. As of the Issuance Date of this Franchise Disclosure Document, we do not offer any Additional Equipment—but anticipate offering a BEV Cart in 2024.

Because the Travelin' Tom's Business is a mobile business, (unless you operate a Fixed Location Business), you will most likely operate your Travelin' Tom's Coffee Franchise from your home, but you may choose to rent an executive suite office or other commercial office space. Depending on your local laws and community rules, you may need to rent or lease storage space for your BEV at a commissary location or other location.

### Market and Competition

Travelin' Tom's Businesses target their products and services to the general public. The market for tea, coffee, and other food and beverage products served in a mobile dining atmosphere is competitive and well-developed. The casual dining industry is highly competitive and is often affected by changes in eating habits, by local and national conditions affecting spending habits, and by population and traffic patterns. Travelin' Tom's Businesses will compete with other local businesses, as well as many local, regional, and national restaurant businesses, grocery stores, street vendors, and other food service businesses offering similar products for mobile consumption, take out, delivery, and catering services.

You will also face normal business risks that could have an adverse effect on your Travelin' Tom's Business. These include industry developments, such as pricing policies of competitors, consumer tastes, and supply and demand.

### Industry-Specific Laws

Many states and local jurisdictions have enacted laws, rules, regulations, and ordinances which may apply to the operation of your Travelin' Tom's Business, including those which: (a) establish general standards, specifications, and requirements for the construction, design, and maintenance of the BEV and any Additional Equipment; (b) regulate matters affecting the health, safety, and welfare of your customers, such as general health and sanitation requirements; employee practices concerning the storage, handling, and preparation of food; special health, food service, and frozen dessert and drink machine licensing requirements; restrictions on smoking and exposure to tobacco smoke or other carcinogens or reproductive toxicants and saccharin; availability of and requirements for public accommodations, including restrooms; (c) set standards pertaining to employee health and safety; (d) set standards and requirements for fire safety and general emergency preparedness, (e) regulate the proper use, storage, and disposal of waste, insecticides, and other hazardous materials, (f) establish general requirements or restrictions on advertising containing false or misleading claims, or health and nutrient claims on menus or otherwise, such as "low calorie" or "fat free," and (g) establish requirements concerning withholdings and employee reporting of taxes on tips. Additionally, most states require a food handler's license and possibly a hawkers or peddlers license which authorizes an individual to sell food from a mobile, outdoor business. Certain city or town clerks in the communities you plan to service may have additional licensing requirements.

Many local or state jurisdictions require food service permits for those preparing, handling and serving food to the public. You and your employees may be required to pass a test or other certification process to obtain these permits. There may also be local ordinances and regulations governing food storage, preparation and serving. The operation of your Travelin' Tom's Business, including maintenance of the equipment, conduct and appearance of personnel, and the preparation and sale of products from your Travelin' Tom's Business may be regulated by various governmental and municipal laws, rules, regulations, and ordinances that you must follow. If any product dispensed at your Travelin' Tom's Business is in violation of any applicable law or regulations, or if the food items, premises, equipment,

personnel or operation of the Travelin' Tom's Business pose a health risk to the public, the applicable governing authorities or agencies may require you to immediately close your Travelin' Tom's Business, terminate selling operations, destroy all contaminated products, eliminate the source of contamination, and remedy all unsanitary conditions present. These governing authorities or agencies may require that you undergo and pass inspection(s) before you reopen for business.

Any person who drives your BEV must have a valid driver's license and each of your BEVs must be properly licensed and registered. The requirements for these licenses may vary, depending on your location. If we require safety additions to your BEV or any Additional Equipment or if your BEV is subject to a manufacturer's vehicle safety recall, you must immediately perform the required repairs, changes, maintenance and/or inspections before using your BEV or any Additional Equipment in the operation of your Travelin' Tom's Business.

You should consult with a legal advisor about whether these and/or other requirements apply to your Travelin' Tom's Business. Failing to comply with laws and regulations is a material breach of the Franchise Agreement.

## **ITEM 2 BUSINESS EXPERIENCE**

### **Chief Executive Officer, President, Secretary and Board Member: Tony Lamb**

Mr. Lamb serves as our Chief Executive Officer, President and Secretary, and also serves as a member of our Board of Directors in Florence, Kentucky and has done so since our inception in January 2021. Mr. Lamb serves as the Chief Executive Officer, President and Secretary, and also serves as a member of the Board of Directors of Affiliate Franchisor in Florence, Kentucky and has done so since its inception in February 2008.

### **Board Member: Matthew Perelman**

Mr. Perelman serves as a member of our Board of Directors in Florence, Kentucky and has done so since our inception in January 2021. Mr. Perelman also serves as a member of the Board of Directors of Affiliate Franchisor in Florence, Kentucky and has done so since July 2019. Mr. Perelman is a Co-Founder and has been a Managing Partner of Garnett Station Partners, an investment firm in New York, New York focused on retail and consumer companies, since September 2013. Mr. Perelman has been a Trustee of the Heckscher Foundation for Children since June 2016, and a Trustee of Reading Partners, both in New York, New York.

### **Board Member: Alexander Sloane**

Mr. Sloane serves as a member of our Board of Directors in Florence, Kentucky and has done so since our inception in January 2021. Mr. Sloane also serves as a member of the Board of Directors of Affiliate Franchisor in Florence, Kentucky and has done so since July 2019. Mr. Sloane is a Co-Founder and has been a Managing Partner of Garnett Station Partners, an investment firm in New York, New York focused on retail and consumer companies, since September 2013. Mr. Sloane has been a Trustee of the Heckscher Foundation for Children since June 2009 and a Trustee of America Needs You since 2011, both in New York, New York.

Board Member: Robert A. Whitehouse II

Mr. Whitehouse serves as a member of our Board of Directors in Florence, Kentucky and has done so since our inception in January 2021. Mr. Whitehouse also serves as a member of the Board of Directors of Affiliate Franchisor in Florence, Kentucky and has done so since July 2019. Mr. Whitehouse has been the Chief Executive Officer of Eagle Financial Services, Inc. and affiliated entities in Florence, Kentucky, which focus on multi-state consumer lending, commercial real estate and furniture stores, since August 2014. Mr. Whitehouse is the past president and has been a member of the board of directors of the Ohio Financial Services Association in Columbus, Ohio since August 2014, and has been a member of the board of directors of the Kentucky Consumer Finance Association in Lexington, Kentucky since November 2014.

**ITEM 3  
LITIGATION**

No litigation is required to be disclosed in this Item.

**ITEM 4  
BANKRUPTCY**

No bankruptcy is required to be disclosed in this Item.

**ITEM 5  
INITIAL FEES**

Initial Franchise Fee

You must pay us an initial franchise fee (“Initial Franchise Fee”) of \$15,000 when you sign the Franchise Agreement. The Initial Franchise Fee is payment for all of our pre-opening assistance that we provide to allow you to open your Travelin’ Tom’s Business and also offsets some of our franchisee recruitment expenses. Each Franchise Agreement will grant you the right to operate one BEV and Additional Equipment (if offered) in the Protected Territory. If you desire to operate more than one BEV, you will be required to purchase an additional Travelin’ Tom’s Coffee Franchise for each BEV. The Initial Franchise Fee is due in full at the time you sign the Franchise Agreement(s), uniform, non-refundable, and deemed fully earned by us once paid. During our last fiscal year, ended December 31, ~~2023~~2022, we collected Initial Franchise Fees of \$15,000.

Additional Franchise Reservation Fee

Franchisees may also reserve an additional Franchise and territory (“Reserved Franchise”) subject to availability and our approval by paying a reservation fee of \$10,000 per ~~territory~~Reserved Franchise (“Reservation Fee”) when you sign the “Additional Franchise Reservation Agreement” which is attached as Exhibit HI-5 to this Franchise Disclosure Document. You will be able to reserve a territory for up to 12 months. We will also give you a right of first refusal for an additional 12 months if you do not purchase the Reserved Franchise within the initial 12-month period. You cannot renew the Additional Franchise Reservation Agreement if you do not purchase the Reserved Franchise. The Reservation Fee will be applied to the Initial Franchise Fee if you execute a new franchise agreement for an additional Travelin’ Tom’s Coffee Franchise. The Reservation Fee is uniform and nonrefundable even if you do not open an additional Travelin’ Tom’s Coffee Franchise.

## Beverage Entertainment Vehicle

You must purchase one BEV from us. You will be required to pay the then-current BEV price at the time you take delivery. As of the Issuance Date of this Franchise Disclosure Document, the current BEV price is between ~~\$161,450~~171,950 and ~~\$176,450~~186,950. You will pay a nonrefundable \$155,000 deposit when you sign the Franchise Agreement and the remaining balance of ~~\$146,450~~156,950 to ~~\$161,450~~171,950 when you take delivery of your BEV.

You must also pay for any required modifications that government agencies require and that are not standard on the BEV. BEV payments are nonrefundable even if you do not open a Travelin' Tom's Coffee Franchise. The BEV will come equipped with a commercial refrigerated base with tap dispensing system, bean-to-cup machine, frozen beverage machine, music system and our proprietary patented Creation Station System. This station allows the customers to choose and apply their own flavorings to their beverage. Franchisees are required to operate at least one BEV, and may operate multiple BEVs, in their Protected Territory.

You are responsible for picking up your BEV from Kona Ice Corporate Office located in Florence, KY after initial training, or you may choose to have your BEV delivered. BEVs are delivered from Florence, Kentucky. If you choose delivery, you will pay the delivery fee directly to us or the transportation company based on the then-current delivery rate. If we delivery your BEV to you, you will pay us a delivery fee of \$10,000 upon delivery. The delivery fee is uniform and nonrefundable.

## BEV Compliance Fee

~~You may have~~are required to pay a fee in the event that we or our affiliate needs to modify for any part of the modification required for your BEV from our standard specifications in order to comply with relevant state or local health department requirements in your Protected Territory. These modifications usually cost between \$1,000 and \$5,000. These payments are paid when you purchase the BEV and are nonrefundable.

## Initial Inventory and Equipment

~~We require all franchisees to~~You must purchase an initial supply of coffee and paper products including, but not limited to, that includes bag-in-box concentrates, flavored syrups, coffee beans, powders, cups, lids and other items. In addition, you are required to purchase a graphics package, and a Travelin' Tom's Coffee welcome box that includes branded t-shirt uniforms from us before you begin operation of your Travelin' Tom's Business. The cost of the initial inventory, graphics package and welcome box is \$11,500 and must be paid prior to the beginning operation of your Travelin' Tom's Business. This payment is uniform and nonrefundable.

## Optional Inventory

~~You may, but are not required to,~~ purchase additional Travelin' Tom's Coffee branded merchandise from us ~~such as~~including jackets, polos, shirts and hats for approximately \$225, depending on the quantity you purchase. You may purchase these items at any time, including prior to opening your Travelin' Tom's Business. These payments are uniform and nonrefundable.

## Insurance

You may, ~~but are not required to~~, purchase your required insurance through our affiliate, Kona Insurance. You must obtain your insurance prior to picking up your BEV. Your insurance will be approximately \$1,500 for three months of coverage but may depend on various factors, including your location and whether you have had prior issues or claims from previous operations. These initial amounts may be paid up to three weeks following issuance, depending on state law. Your rates may be significantly higher if you have had prior issues or claims from previous operations. These payments are uniform and nonrefundable.

## Area Development Agreement

Franchisees may also purchase the rights to open additional Travelin' Tom's Businesses by signing our Area Development Agreement and paying a development fee ("Development Fee"). The Development Fee is equal to the Initial Franchise Fee for your first Franchise Agreement (\$15,000). Area Developers must open a minimum of one Travelin' Tom's Businesses and may open up a maximum of three Travelin' Tom's Businesses. The Development Fee is payable when you sign your Area Development Agreement. We will credit the Development Fee against the Initial Franchise Fee for your First Franchise Agreement. You must also pay us a \$10,000 BEV deposit 12 months before the deadline to enter into each additional Franchise Agreement with us. The deposit will be credited towards the purchase price of the BEV that you purchase under each additional Franchise Agreement and is not refundable. You will be required to sign our then-current form of Travelin' Tom's Franchise Agreement, which may differ from the current Franchise Agreement included with this Franchise Disclosure Document for each Travelin' Tom's Business that you develop under the Area Development. The Development Fee is uniform, payable when you sign your Area Development Agreement and is nonrefundable under any circumstances, even if you fail to open any Travelin' Tom's Businesses.

If you form an entity to open any of the Travelin' Tom's Businesses within the Development Territory, you must own at least 51% of each entity. You must provide us with necessary documentation to show your ownership interest.

## Financial Assurance

Some states have imposed a financial assurance. Please refer to the Addendum in Exhibit GH to the Franchise Disclosure Document.

## ITEM 6 OTHER FEES

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Royalty <sup>(2), (3)</sup>	\$3,000 for years one and two; \$4,000 for years three through six; and \$5,000 for years seven through ten; <del>\$2,000 per year for any Travelin' Tom's operating as a Fixed Location Business</del>	Three equal installments due June 30, July 31, and August 31 of each year, or six equal installments due May 31, June 30, July 31, August 31, September 30 and October 31, or nine installments due <del>due dates</del> April 30, May 31, June 30, July 31, August 31, September 30, October 31, November 30, and December 31. Payable beginning the first calendar year in which you take delivery of the BEV	This royalty ("Royalty") is an ongoing payment that allows you to use the Marks and the intellectual property of the System and pays for our ongoing support and assistance. We reserve the right to charge additional Royalties for the use of Additional Equipment. If you are renewing your franchise agreement, you must pay our then-current successor franchise Royalty payments. If you are purchasing an existing Franchise, the date for determining Royalty payments will be determined from the date the initial franchise agreement was signed. <u>If you open a Fixed Location Business, you will not pay this Royalty but will pay the "Fixed Location Royalty."</u>
Additional Equipment Royalty <sup>(4)</sup>	Varies based on the type of Additional Equipment	Same as Royalty	We currently do not have Additional Equipment available. If we offer Additional Equipment, you may purchase it for use in your Protected Territory. We estimate the Additional Equipment Royalty to be <del>between \$600 and \$2,000</del> per year. We do not require you to purchase any Additional Equipment during the term of the Franchise Agreement.
<u>Fixed Location Business Royalty</u>	<u>The greater of \$166.67 per month or 2% of gross sales for any Travelin' Tom's operating as a Fixed Location Business</u>	<u>Same as Royalty</u>	<u>You will pay this fee for any Fixed Location Businesses you operate. This fee is in addition to the Royalty you will pay for your BEV.</u>
Additional Franchise Reservation Fee	\$10,000 per territory	As incurred	Franchisees may reserve territories in addition to the Protected Territory. We will apply an Additional Franchise Reservation Fee to the Initial Franchise Fee if you purchase an additional Franchise and a new BEV. The Additional Franchise Reservation Fee will not be applied to the Initial Franchise Fee if you purchase a second-hand BEV.

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Territory Infringement Fee	\$1,000 plus amount of applicable products and services you invoiced while infringing for first violation; \$5,000 plus amount of applicable products and services you invoiced while infringing for second and subsequent violations	As incurred	Payable to us if you infringe on another Travelin' Tom's Coffee franchisee's Protected Territory by receiving payment for goods and/or services provided and/or rendered within the other franchisee's Protected Territory without that franchisee's and/or our permission. We may direct the funds at our option.
Initial Territory Adjustment Fee	\$1,000 to \$2,500	As incurred	We may, subject to availability and our approval, allow you to modify your Protected Territory during your first 90 days of operation of your Travelin' Tom's Business. You will be required to pay an " <u>Initial Territory Adjustment Fee</u> ." The amount of this fee will be \$1,000 during the first 30 days of operation and \$2,500 beginning on the 31 <sup>st</sup> day. No modifications will be granted after 90 days of the delivery of the BEV.
Territory Relocation Fee	\$2,500	As incurred	This " <u>Territory Relocation Fee</u> " is payable to us if we approve the relocation of your Protected Territory.
Brand Fund Contribution	Currently \$1,000 per year- <u>Plus an additional \$200 per year for each piece of Additional Equipment that you operate</u>	Same as Royalty	We have established a system wide " <u>Brand Fund</u> ." We reserve the right to change the Brand Fund Contribution annually by up to 10% upon 30 days' written notice to you.
Unauthorized Advertising Fee	\$1,000	On demand	This fee is payable the Brand Fund if you use unauthorized advertising in violation of the terms of the Franchise Agreement.
Additional Training	Then-current fee (we do not currently charge for this) plus costs and expenses	As incurred	We may charge you for training newly-hired personnel, refresher training courses, advanced training courses, and additional or special assistance or training you may need or request. The fee amount will depend on the training required and experience level of the trainer. We may also require you to reimburse us for costs and expenses incurred in providing training to you.
Email Address Fee/Google Voice Fee	\$168 per email address per year and \$46 <u>14</u> per month	Same as Royalty	Payable to us for each email address we establish for you and for use of Google Voice. Each franchisee entity is required to have at least one Travelin' Tom's Coffee email address. We reserve the right to increase this fee upon 30 days' written notice to you.



Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Technology Fee <sup>(5)</sup>	\$500 per year	Same as Royalty	You will pay this fee for each Travelin' Tom's Coffee Franchise you operate. We reserve the right to upgrade, modify and add new technologies and software. You are responsible for any increase in fees that result from any third-party price increases, upgrades, modifications or additional software, including any proprietary software. We reserve the right to increase this fee upon 30 days' written notice to you.
KonaOS Business Management Software Fee	<del>\$49</del> Then current price (currently \$35 per month for one per BEV operated by existing franchisees and \$29 per month for each additional BEV you operate, and \$1920 per month for every ancillary unit you operate.).	Same as Royalty	You will pay this fee directly to Kona Software Affiliate. You are responsible for any increase in in this fee that results from any third-party price increases, upgrades, or modifications. We may allow you to use this software for non-Travelin' Tom's Businesses for an additional charge.
Insurance	Reimbursement of our costs, plus a 20% administration charge	On demand	If you fail to obtain insurance, we may obtain insurance for you, and you must reimburse us for the cost of insurance obtained (currently \$500 per month) plus 20% of the premium for an administrative cost of obtaining the insurance.
Customer Satisfaction Reimbursement	Varies under circumstances	As incurred	We may, in our sole discretion, remedy any issues with customers of your Travelin' Tom's Business, including full reimbursement of any fees paid to you. You must reimburse us for any such costs.
Supplier and Product Evaluation Fee	Costs of inspection (estimated to be approximately \$100 to \$500)	As incurred	Payable if we inspect a new product, service, or proposed supplier nominated by you.
Misappropriated Brand Manual Fee <sup>(6)</sup>	Will vary under the circumstances	On demand	Our " <u>Brand Manual</u> " contains valuable intellectual property and trade secrets. Each franchisee will get one copy of the Brand Manual. If you lose, give away, make unauthorized copies, fail to return or otherwise misappropriate all or some of the Brand Manual, you must pay us liquidated damages according to the formula listed in Note 6 to offset the damages that we will incur as a result of this misappropriation.

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Non-Compliance Fee	\$1,000 for the first violation; \$5,000 if violation is not corrected within 30 days; and \$5,000 for the second violation.	As incurred	This fee is assessed if we notify you that you are failing to follow our System Standards (defined in Item 8), failing to use the approved or required suppliers or products, failing to comply with the provisions of the Franchise Agreement or failing to follow the provisions of our Brand Manual. This fee is in addition to any and all remedies that we have available under the Franchise Agreement. If you commit three or more violations in a single year, we may terminate your Franchise Agreement.
Payment Service Fees	Up to <u>34</u> % of total charge	As incurred	If payment is made to us or our affiliates by credit card for any fee required, we may include a service fee of up to <u>34</u> % of the total charge.
Late Fees	\$25 per day, plus the lesser of the daily equivalent of 12% per year simple interest or the highest rate allowed by law	On demand	Payable if any payment due to us or our affiliate is not made by the due date. Interest accrues from the original due date until payment is received in full.
Returned Check or Insufficient Funds Fee	\$100	As incurred	Payable if any check or electronic funds transfer payment is not successful due to insufficient funds, stop payment, or any similar event.
Indemnification	Varies under circumstances	As incurred	You must indemnify and reimburse us for any expenses or losses that we or our representatives incur related in any way to your Travelin' Tom's Business or Franchise.
Professional Fees and Expenses	Will vary under circumstances	As incurred	You must reimburse us for any legal or accounting fees that we incur as a result of any breach or termination of your Franchise Agreement. You must reimburse us if we are required to incur any expenses in enforcing our rights against you under the Franchise Agreement. You will also be required to pay any professional fees that we incur for certain transfers as discussed in this Item 6.
Renewal Franchise Fee	\$7,500	At the time you sign the successor franchise agreement	Payable if you qualify to renew your Franchise Agreement and choose to enter into a successor franchise agreement.

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Transfer Fee	\$5,000 <del>to</del> or \$7,500 <u>plus \$1,000 for each piece of Additional Equipment</u>	\$1,000 nonrefundable deposit at time of transfer application submittal and the remaining balance of fee at time of approved transfer	<p>This fee (“<u>Transfer Fee</u>”) is payable in connection with the transfer of your Travelin’ Tom’s Business, your BEV, a transfer of ownership of your legal entity, or the Franchise Agreement. If you transfer to an existing Travelin’ Tom’s Coffee franchisee, the Transfer Fee is \$5,000. Otherwise, it is \$7,500. <u>In addition, you must pay a transfer fee of \$1,000 for each piece of Additional Equipment that your transfer.</u></p> <p>If you are transferring the Franchise Agreement to an entity that you control, family, or adding minority equity owners, we do not required you to pay a Transfer Fee, but you must pay our actual costs, including legal fees.</p>
Additional Equipment Transfer Fee	<del>\$500</del> <u>\$1,000</u> per Additional Equipment	At time of approved transfer	Payable in connection with the transfer of your Additional Equipment. You will be required to pay off any loans on the Additional Equipment prior to transfer.
BEV Remodel or BEV Upgrades	Will vary under circumstances	Upon execution of successor franchise agreement, upon a BEV rewrap or upon a transfer of an existing BEV (and Additional Equipment, if any) that has not completed the required remodels	You must keep your BEV and Additional Equipment, if any) in compliance with current System Standards which includes a rewrap when required (at least every seven years of operation). You may need to pay this fee for the BEV (and Additional Equipment, if any): (1) upon execution of successor franchise agreement for a Travelin’ Tom’s Coffee Franchise that has not completed the required remodels or is not in compliance with current standards; (2) for the transfer of a Travelin’ Tom’s Business that has not completed the required remodels; or (3) if they are not in compliance with current standards.
Mystery Shopper Fee	\$1,000 per occurrence	On demand	We may require you to conduct a self-shop by sending us photos of your BEV or any Additional Equipment. If the results of the self-shop shop are unsatisfactory or you do not participate, we may send a mystery shopper or similar third party to conduct a mystery shop. If the results of the third-party mystery shopper are unsatisfactory, we will conduct a mystery shop of your Travelin’ Tom’s Coffee Franchise and you must pay us a fee of \$1,000 to cover our travel and expenses and you will be subject to non-compliance fees.

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Monitor Content Management Software Fee	\$240 per year per monitor	Same as Royalty	All BEVs are equipped with a monitor on the exterior to allow both static and video images to be displayed including menu items, limited time offers, holiday messaging and content for specific events. Franchisees will have their own account to store, edit and customize the playlists on their monitor content. You will be required to follow the Monitor Guideline and Usage Policy contained in the Brand Manual.
Document Fee	\$250 per document	As incurred	You must pay us a document fee of \$250 (“ <u>Document Fee</u> ”) if you need an additional copy of your franchise disclosure document or signed Franchise Agreement. <del>You must be a current franchisee in good standing in order to obtain any documents from us.</del>
Lead Procurement Fee	\$15,000 or the third-party broker fee, currently estimated to be \$3,000	As incurred	Payable only in connection with the transfer to a purchaser that was referred to you through one of our leads or through a third-party broker that we have a contract with. This fee is in addition to the Transfer Fee.
Branded Audit Fee	\$3,000	On demand	You will be required to pay this fee if an audit reveals your purchases of branded cups and/or products equals less than 30% of your gross sales unless you can provide written substantiation of your proper usage of branded cups in the operation of your Travelin’ Tom’s Business. This fee is in addition to all of other rights and remedies that we have in the Franchise Agreement.
Audit	Cost of audit and any related accounting and legal expenses and related travel and administrative expenses (we estimate this cost to be between \$1,000 and \$10,000)	On demand	You will be required to pay these costs if an audit reveals that you have failed to submit required reports or other information that we require.
Optional E-Lead Program Fee <sup>(7)</sup>	\$250 or \$500 per year	On demand	You will be required to pay this annual fee if you opt in to our optional “ <u>E-Lead Program</u> ” which provides digital marketing services.

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Limited Time Offer Campaign Fee	<u>Currently</u> \$150 to \$500 per kit	On demand	<del>The Franchisees are required to participate in limited time offer campaign is offering flavor and marketing campaign campaigns (currently offered in the Spring, Summer and Fall. Each kit). You are required to purchase a kit that includes flavoring and marketing materials. You will be required to pay us this fee for each kit you purchase if you opt in to our optional limited time offer campaign campaign. We reserve the right to increase this fee upon 30 days' notice. We reserve the right to require it upon 60 days' notice to you.</del>
<u>Conference Fee</u>	<u>Then-current fee</u>	<u>On demand</u>	<u>Payable if you attend our annual conference. The conference fee for our last annual conference ranged from \$349 to \$500 depending on when you paid.</u>

Notes:

1. Fees. All fees paid to us or our affiliates are uniform and not refundable under any circumstances once paid. Fees paid to vendors or other suppliers may be refundable depending on the vendors and suppliers. We currently require you to pay fees and other amounts due to us and our affiliates via electronic funds transfer (“EFT”) or other similar means. You are required to complete the EFT authorization (in the form attached to this Franchise Disclosure Document in Exhibit HI). We can require an alternative payment method or payment frequency for any fees or amounts owed to us or our affiliates under the Franchise Agreement. All fees are current as of the Issuance Date of this Franchise Disclosure Document. Certain fees that we have indicated may increase over the term of the Franchise Agreement.
2. Installment Payments. Franchisees currently have the option to pay certain fees annually or in installment payments on a three, six or ninth month schedule (“Installment Payments”). If you choose to pay in Installment Payments, your fees will be divided equally over the Installment Payment period you selected.
3. Royalty. Beginning on the opening date of your Travelin’ Tom’s Business, and continuing for the term of this Franchise Agreement, including any interim period between franchise agreements, you agree to pay us the Royalty listed below annually in in Installment Payments (“BEV Royalty Schedule”):

Time Period*	Total Royalty	BEV Royalty Schedule (If you make 3 installment payments per year)	BEV Royalty Schedule (If you make 6 installment payments per year)	BEV Royalty Schedule (If you make 9 installment payments per year)
Years 1-2	\$3,000	June 30: \$1,000 July 31: \$1,000 August 31: \$1,000	May 31: \$500 June 30: \$500 July 31: \$500 August 31: \$500 September 30: \$500 October 31: \$500	April 30: \$333 May 31: \$333 June 30: \$334 July 31: \$333 August 31: \$333 September 30: \$334 October 31: \$333 November 30: \$333 December 31: \$334
Years 3-6	\$4,000	June 30: \$1,333 July 31: \$1,333 August 31: \$1,334	May 31: \$666 June 30: \$666 July 31: \$667 August 31: \$667 September 30: \$667 October 31: \$667	April 30: \$444 May 31: \$445 June 30: \$444 July 31: \$445 August 31: \$444 September 30: \$445 October 31: \$444 November 30: \$445 December 31: \$444
Years 7-10 (plus any interim period between franchise agreements, if applicable)	\$5,000	June 30: \$1,666 July 31: \$1,667 August 31: \$1,667	May 31: \$833 June 30: \$833 July 31: \$833 August 31: \$833 September 30: \$834 October 31: \$834	April 30: \$556 May 31: \$555 June 30: \$556 July 31: \$555 August 31: \$556 September 30: \$555 October 31: \$556 November 30: \$555 December 31: \$556
<del>Fixed Location Business for Initial Term and Interim Period, if applicable</del>	<del>\$2,000</del>	<del>June 30: \$666 July 31: \$667 August 31: \$667</del>	<del>May 31: \$333 June 30: \$333 July 31: \$333 August 31: \$333 September 30: \$334 October 31: \$334</del>	<del>April 30: \$222 May 31: \$222 June 30: \$222 July 31: \$222 August 31: \$222 September 30: \$222 October 31: \$222 November 30: \$223 December 31: \$223</del>

You may choose your Installment Payment schedule each year so long as you make your selection prior to our annual convention. If you do not make a selection before the convention, we will elect for you. If you qualify to renew your Franchise Agreement and choose to enter into a successor franchise agreement, or, if you are a transferee, the date for determining your BEV Royalty Schedule will be the date the initial franchise agreement was signed for the Travelin' Tom's Business you are continuing to operate or acquired and you must pay our then-current successor royalty for successor franchise agreements which is ~~currently \$5,000 per year, or \$2,000 per year if you operate a Fixed Location Business.~~ we anticipate will be higher than the royalty for new franchisees. For any other fees that can be paid as Installment Payments, you will pay each fee in accordance with our payment policies as stated in the Brand Manual.

4. Additional Equipment Royalty. We do not offer any Additional Equipment as of the Issuance Date of this Franchise Disclosure Document.
5. Technology Fee. We provide you with ~~certain technical services~~ technologies in exchange for a monthly technology fee ("Technology Fee"). The Technology Fee may change periodically based on changes to the technological services we provide and/or our costs to provide these services. We reserve the right to develop, license, sublicense, and create additional software and technologies that Travelin' Tom's Coffee franchisees must pay for and use. We can change the software and technology that must be used by our franchisees at any time, which may result in changes to the Technology Fee.
6. Misappropriated Brand Manual Fee. This fee is determined by taking our total revenue from our previous fiscal year, multiplied by the fraction which results from taking one divided by the current number of Travelin' Tom's Coffee franchisees as of the date of the misappropriation, except that this fee will not, under any circumstances, be less than \$30,000.
7. Optional E-Lead Program Fee. The E-Lead Program is an optional digital marketing service to manage the placement of digital ads. Franchisees can choose the E-Lead Lite for \$250 or the E-Lead Plus for \$500. This fee is for administration of the program. Franchisees pay for the ads directly to third parties.

## ITEM 7 ESTIMATED INITIAL INVESTMENT

### YOUR ESTIMATED INITIAL INVESTMENT

Type of Expenditure	Amount		Method of Payment	When Due	To Whom Payment is Made
	Low	High			
Initial Franchise Fee	\$15,000	\$15,000	Lump Sum	Upon signing the Franchise Agreement	Us



Type of Expenditure	Amount		Method of Payment	When Due	To Whom Payment is Made
	Low	High			
BEV and Installed Equipment <sup>(1)</sup>	<del>\$161,450</del> 171,950	<del>\$176,450</del> 186,950	Two Installments	\$15,000 due upon signing the Franchise Agreement and the balance of <del>\$146,450</del> 156,950 to <del>\$161,450</del> 171,950 due upon delivery or pick up of the BEV and related equipment	Us
Training Expenses <sup>(2)</sup>	\$140	\$950	As Incurred	As Incurred	Providers of Travel, Lodging, and Food Services
BEV Delivery <sup>(3)</sup>	\$0	\$10,000	Lump Sum	Upon delivery of the BEV and related equipment	Us or Third Party
BEV Compliance Fee	\$1,000	\$5,000	As Incurred	As Incurred	Us or our affiliate
BEV Insurance for 3 Months <sup>(4)</sup>	\$600	\$1,500	As Incurred	As Incurred	Our affiliate or Insurance Companies
Tax, Title, and Licensing of BEV <sup>(5)</sup>	\$180	\$8,000	Lump Sum	Upon delivery or pick up of the BEV	Government Agencies
Initial Inventory <sup>(6)</sup>	\$11,500	\$11,500	Lump Sum	Before Opening	Us
Optional Inventory <sup>(7)</sup>	\$0	\$225	As Incurred	As Incurred	Us, Suppliers
Permits and Licenses <sup>(8)</sup>	\$250	\$1,500	Lump Sum	As Incurred	Government Agencies
Real Estate or BEV Storage <sup>(9)</sup>	\$0	<del>\$1,200</del> 4,000	As Incurred	As Incurred	Third Parties
Computer System and Software	\$0	\$1,000	As Incurred	Before Opening	Suppliers
Additional Funds – 3 Months <sup>(10)</sup>	\$1,000	\$14,000	As Incurred	As Incurred	Us, Third Parties

Type of Expenditure	Amount		Method of Payment	When Due	To Whom Payment is Made
	Low	High			
TOTAL ESTIMATED INITIAL INVESTMENT <sup>(11)</sup>	\$191,120 201,620	\$246,325 259,625			

Notes:

These estimated initial expenses are our best estimate of the costs you may incur in establishing and operating your Travelin' Tom's Coffee Franchise. Except as stated in Item 10, neither we nor any agent or affiliate of ours offers direct financing. You may be able to finance the purchase of your BEV or any Additional Equipment (See Item 10). All expenditures paid to us or our affiliates are uniform and nonrefundable under any circumstances once paid. All expenses payable to third parties are nonrefundable, except as you may arrange for utility deposits and other payments.

1. BEV and Installed Equipment. Only the BEV or any Additional Equipment may be used in the operation of your Travelin' Tom's Business. No other truck or vehicle may be used in the operation of your Travelin' Tom's Business. These items must be purchased from us or our affiliate.
2. Training Expenses. We will pay for hotel and airfare for one attendee for our initial training program in Florence, Kentucky, which we estimate to include approximately 16-20 hours of training. You are responsible for all other costs and for any additional initial training program attendees. The low estimate is for the one required attendee's miscellaneous travel expenses such as food and beverage purchases while traveling by car, and assumes the cost of the attendee's hotel, airfare, or otherwise cost of and transportation to our headquarters is paid for by us. The high estimate includes one additional attendee's airfare, hotel and miscellaneous travel expenses such as food and beverage purchases while traveling through airports.
3. BEV Delivery. You are responsible for picking up your BEV from the manufacturer located in Elkhart, Indiana after initial training, or you may choose to have your BEV delivered. BEVs are delivered from Florence, Kentucky. If you choose delivery, you will pay the delivery fee directly to us if we deliver your BEV or to the transportation company based on the then-current delivery rate.
4. BEV Insurance- for 3 Months. You must obtain and maintain, at your own expense, the insurance coverage we require, and satisfy other insurance-related obligations. Please note that if you have had prior issues or claims from previous operations unrelated to the operation of a Travelin' Tom's Business, your rates may be significantly higher than those estimated above. You may, but are not required to, purchase this insurance through the captive insurance program offered through our affiliate.
5. Tax, Title, and Licensing of BEV. You are required to pay all federal and state tax, title, licenses, and other costs of titling the BEV. The estimates above include a sales (or usage) tax of an estimated 6% of the purchase price of the BEV. The actual amount may be more depending on the tax rate in the jurisdiction where you title your BEV. You should check with your local county clerk's office or other governmental titling office for your state's tax rate and the exact cost to title and license your BEV.

6. Initial Inventory. You must purchase an initial inventory of coffee and paper products including, but not limited to, bag-in-box concentrates, flavored syrups, coffee beans, powders, cups, lids and other items. In addition, you are required to purchase a graphics package, and a Travelin' Tom's Coffee welcome box that includes branded t-shirt uniforms to begin operation of your Travelin' Tom's Business. These items must be purchased from us or our affiliate, and you are not permitted to purchase any of these items, with the exception of ice, from alternate sources.
7. Optional Inventory. You may also purchase Travelin' Tom's Coffee branded merchandise such as jackets, polos, shirts and hats from us.
8. Permits and Licenses. You must pay for local permits and licenses, which are usually required in each city, county, and state where you operate. You should check with your local taxing authorities and with your tax advisor for the amount of such governmental charges.
9. Real Estate or BEV Storage. Because most of our franchisees will operate their Travelin' Tom's Business out of their residences, this chart does not include estimates for items such as real property, real estate deposits, leases, leasehold improvements, furniture, fixtures, fixed assets, remodeling, construction, decorating costs, utility deposits, or security deposits, which will likely not apply unless you choose to acquire a business premises. In addition, we assume that you will not need to obtain desks, chairs, and other standard office supplies and equipment and do not include estimates for these items. You may need to rent a storage area for your BEV and any Additional Equipment. The low end assumes that you can store your BEV at your residence. The high estimate provides for three months of storage at an outdoor vehicle storage area.
10. Additional Funds – 3 Months. These amounts represent our estimate of the amount needed to cover your expenses for the initial three-month start-up phase of your Travelin' Tom's Business. Expenses could include office/warehouse space (if required), utilities, special event fees, uniforms, as well as additional operating capital for other variable costs such as fuel, vehicle maintenance, internet service, and mobile phones/telephone. These amounts include \$4,000 in payroll expenses, in the event you intend to hire employees to operate your BEV. The high figure includes \$3,000 in Royalty fees and \$1,000 in Brand Fund contributions and \$500 in Technology Fee payments, which may be due within your initial three-month start-up phase. These figures also include \$500 payable to us if you chose to participate in the E-Lead Program in your first three months' of operations. We have elected to include certain fees as line items above, including the BEV insurance payments. These fees could also be included in our Additional Funds amounts. For purposes of this disclosure, we estimated the start-up phase to be three months from the date your Travelin' Tom's Business opens for business. We have relied on our affiliate's operation of a mobile business since 2007 and its franchising experience since 2008 to arrive at these estimates. ~~Your costs will depend on factors such as: how well you follow our methods and procedures; your management skills, experience, and business acumen; local economic conditions; the local market for your products and services; the prevailing wage rate; competition; and the sales level reached during the start-up period.~~
11. This is an estimate of your initial start-up expenses for one Travelin' Tom's Coffee Franchise. ~~You should review~~

### Area Developer

<u>Type of Expenditure</u>	<u>Amount</u>		<u>Method of Payment</u>	<u>When Due</u>	<u>To Whom Payment is to be Made</u>
	<u>Low</u>	<u>High</u>			
<u>Development Fee<sup>(1)</sup></u>	<u>\$15,000</u>	<u>\$15,000</u>	<u>Lump sum</u>	<u>At the Time You Sign your Area Development Agreement</u>	<u>Us</u>
<u>BEV Deposit</u>	<u>\$10,000</u>	<u>\$30,000</u>	<u>Lump sum</u>	<u>12 months before entering into each subsequent Franchise Agreement</u>	<u>Us</u>
<u>Initial Investment for the First Travelin' Tom's Business<sup>(2)</sup></u>	<u>\$201,620</u>	<u>\$259,625</u>	<u>Per Table Above</u>	<u>Per Table Above</u>	<u>Per Table Above</u>
<u>TOTAL ESTIMATED INITIAL INVESTMENT FOR UP TO TWO TRAVELIN' TOM'S BUSINESSES<sup>(3)</sup></u>	<u>\$403,240</u>	<u>\$519,250</u>			
<u>TOTAL ESTIMATED INITIAL INVESTMENT FOR UP TO THREE TRAVELIN' TOM'S BUSINESSES<sup>(3)</sup></u>	<u>\$604,860</u>	<u>\$778,875</u>			

Notes:

These estimated initial expenses are our best estimate of the costs you may incur in establishing and operating your Travelin' Tom's Businesses under an Area Development Agreement. We do not offer direct or indirect financing for these items. The factors underlying our estimates may vary depending on several variables, and the actual investment you make in developing and opening your Area Development Franchise may be greater or less than the estimates given depending upon the locations of your Travelin' Tom's Businesses and current relevant market conditions. All expenses payable to the parties are non-refundable, except as you may otherwise arrange.

1. Development Fee. If you sign an Area Development Agreement to develop a mutually agreed number of Travelin' Tom's Businesses, you will pay a Development Fee which is equal to the Initial Franchise Fee for your first Franchise Agreement (\$15,000). You will be required to pay the Initial Franchise Fees for the additional Travelin' Tom's Businesses when you sign each subsequent Franchise Agreement. Area Developers must open a minimum of one Travelin' Tom's Businesses and a maximum of three Travelin' Tom's Businesses. See Item 5 for more information on the Development Fee.
2. Initial Investment for First Travelin' Tom's Business. These are the estimates to start your Travelin' Tom's Business as described in the single franchised Travelin' Tom's Business chart above, except for the Initial Franchise Fee which is replaced by the Development Fee. You will be required to pay the balance of \$5,000 owed for the Initial Franchise Fee for each additional Travelin' Tom's

Business when you sign each subsequent Franchise Agreement. Costs associated with starting additional Travelin' Tom's Businesses are subject to factors that we cannot estimate or control, such as inflation, increased labor costs or increased materials costs and will depend on when the additional Travelin' Tom's Businesses are opened.

3. If you purchase multiple franchised businesses under the Area Development Agreement, you will incur all of the costs listed above for each Travelin' Tom's Business you open. This is only an estimate of your initial investment and is based on our estimate of domestic costs and market conditions prevailing as of the Issuance Date of this Franchise Disclosure Document. This estimate includes the total Initial Franchise Fees you will be required to pay for each Travelin' Tom's Business developed under the Area Development Agreement. You must bear any deviation or escalation in costs from the estimates that we have given. Review these figures carefully with a business advisor before making any decision to purchase the Franchise, and/or legal counsel before deciding to purchase an Area Development Franchise. The availability and terms of financing depend on several factors, including the availability of financing, your creditworthiness, collateral you may have, and lending policies of financial institutions.

## ITEM 8 RESTRICTIONS ON SOURCES OF SERVICES AND PRODUCTS

### System Standards

To ensure the highest degree of quality and service is maintained, you must operate the Travelin' Tom's Business in strict conformity with the methods, standards, and specifications ("System Standards") we list in our proprietary and confidential operating manual ("Brand Manual"), which may exist in various parts, locations, and formats, and may include a combination of audio, video, written material, electronic media, website content, and/or software components. Our Brand Manual will include our "Success Guide" and may also include other written components.

System Standards may regulate, among other things, the types, models, and brands of supplies, equipment, furnishings, and signs; services, products, and supplies the Travelin' Tom's Coffee Franchise must offer; unauthorized and prohibited services and products; inventory requirements; and designated and approved suppliers of these items. You must not: (i) deviate from these methods, standards, and specifications without our prior written consent, or (ii) otherwise operate in any manner which reflects adversely on our Marks or the System. Your Travelin' Tom's Coffee Franchise must prepare and sell only the products that we designate and approve. We have the right to periodically make modifications to these products and you agree to comply with these modifications. You may not offer or sell any other product or service without our prior written consent. Establishing and enforcing System Standards are the mechanism by which we maintain the quality and consistency of the Travelin' Tom's Coffee brand. If any product dispensed at your Travelin' Tom's Business violates our System Standards or any applicable laws or regulations, or poses a health risk to the public, we may require that you immediately close your Travelin' Tom's Business and not reopen until approved to do so by us after our inspection. In order to protect the public from any risk of harm and to protect the goodwill and reputation of the System, we may seek immediate injunctive relief seeking an order to close your Travelin' Tom's Business if you fail to close your Travelin' Tom's Business upon our request.

We will notify you of new or modified specifications, standards, and guidelines through periodic amendments or supplements to the Brand Manual or through written communication (including electronic communication). We will issue copies of our standards and specifications to you unless these standards and specifications contain our confidential information. We may require you to remodel, and modernize;

and redecorate the BEV, at your sole expense, so that the BEV reflects our then-current System Standards as to image and quality.

You must use the computer hardware and software, including the point-of-sale system that we periodically designate to operate your Travelin' Tom's Coffee Franchise. You must obtain the computer hardware, software licenses, maintenance and support services, and other related services that meet our specifications from the suppliers we specify.

### BEV Appearance

You must maintain the appearance of the BEV in accordance with our System Standards, including a rewrapping, at your expense, as required by us based on the condition of the BEV (but no later than seven years after you purchase the BEV). You are required to update the wrap every seven years, or sooner, if needed, at your expense. There are no limits on the number of times we may require you to rewrap your BEV, but we do not expect to require you to do so more than once every seven years, except in extraordinary circumstances based on the condition of the BEV. If you sign a successor franchise agreement, we may require you to purchase a replacement BEV after 14 years. You will be required to update the BEV appearance as follows: (1) upon the execution of successor franchise agreement for a Travelin' Tom's Coffee Franchise with a BEV that has not completed the required remodels or is not in compliance with current standards; (2) for the transfer of a Travelin' Tom's Business with a BEV that has not completed the required remodels; or (3) for a BEV that is not in compliance with current standards. See Item 11 for more information. You must use our approved supplier for the window tinting, wrapping and upfitting of your BEV. You may be required to purchase a new BEV depending on age, condition and wear. If you signed an Area Development Agreement, you must also pay us a non-refundable \$10,000 BEV deposit 12 months before the deadline to enter into each additional Franchise Agreement with us.

### Additional Equipment

You must maintain the appearance of any Additional Equipment in accordance with our System Standards, including a rewrapping, at your expense, as required by us based on the condition of Additional Equipment (but no later than seven years after you purchase Additional Equipment). See Item 11 for more information. You must use our approved supplier for the window tinting, wrapping and upfitting of your Additional Equipment.

### Insurance

You must obtain and maintain at your own expense and from a supplier rated "A-" or better by Best's Insurance Reports, the insurance coverage that we periodically require, and satisfy other insurance-related obligations. You currently must have the following coverage:

- A. If you have employees, workers' compensation insurance in an amount not less than \$500,000 or a higher amount as required by state statute or rule in the state in which your Travelin' Tom's Business is located;
- B. Comprehensive business automobile insurance, including physical damage for the BEV in an amount of ~~\$461,450~~ \$171,950 or greater, except that an appropriate deductible clause (maximum \$5,000 deductible) will be permitted. Also including any ancillary equipment and any other property used in the operation of the Travelin' Tom's Business;
- C. Comprehensive general liability insurance and product liability insurance coverage in such amounts and upon such terms as may generally be customary for a mobile coffee business



located in your Protected Territory, but not less than \$1,000,000, insuring both you and us against all claims, suits, obligations, liabilities and damage, including attorney fees, based upon or arising out of actual or alleged personal injuries or property damage relating to the use or condition of the Franchise;

- D. You must procure, maintain and provide evidence of automobile (truck) vehicle liability insurance covering the driving of the BEV, Hire/Non Owned Autos and any Additional Equipment or vehicles used in your business in an amount of not less than \$1,000,000; and
- E. Such additional insurance as may be required by the terms of any lease or mortgage for the Franchise.

We may periodically increase the amounts of coverage required under these insurance policies and/or require different or additional insurance coverage at any time. You may purchase all of your insurance through the captive insurance program offered by our affiliate, Kona Insurance. The captive insurance program is a comprehensive property and casualty insurance program covering the Travelin' Tom's Coffee franchisees in the following areas: Commercial Auto Liability; Commercial Auto Physical Damage; Commercial General Liability; Property Coverage and Inland Marine; Workers Compensation; and Commercial Umbrella. The program is underwritten by Great American Insurance Group and administered by Cornerstone Insurance.

All insurance policies, except for employment liability insurance policies, must name us and any affiliates we designate as additional named insured parties and provide for 30 days prior written notice to us of a policy's material modification, cancellation, or expiration. You must furnish us with a copy of your Certificate of Insurance within ten days after the policy is issued or renewed.

#### Approved Products and Services

We may develop proprietary food products ("Products") and may develop and own proprietary recipes ("Proprietary Recipes"). In order to protect their trade secrets and to monitor the manufacture, packaging, processing, and sale of Products, we or our affiliate will: (i) manufacture, supply, and sell Products to Travelin' Tom's Coffee franchisees; and/or (ii) disclose Proprietary Recipes to a limited number of suppliers, including our affiliate.

You must obtain services and products from: (1) designated suppliers, (2) approved suppliers, and/or (3) according to our specifications. We will issue you a list of the designated and approved suppliers. If you want to use or sell a product or service that we have not yet evaluated or if you want to purchase or lease a product or service from a supplier or provider that we have not yet approved (for services and products that require supplier approval), you must follow the policies and procedures contained in our Brand Manual. Our approval generally will be based on the supplier's ability to consistently make the manufactured product to our standards, requirements, and/or specifications; the supplier's willingness to protect our confidential information; production, delivery, and service capability to meet supply and service commitments; and other criteria detailed in the Brand Manual. We will use commercially reasonable efforts to notify you within 60 days after receiving all requested information and materials whether you are authorized to purchase or lease the product or service from that supplier or provider. Costs associated with gaining approval may be your responsibility and/or the supplier's where existing suppliers are capable of providing an existing product. We may periodically re-inspect approved suppliers' facilities and products, and we reserve the right to revoke our approval of any supplier, provider, product or service that does not continue to meet our specifications. We do not provide material benefits to you based solely on your use of designated or approved suppliers. Some of our officers own an interest in our affiliate, Kona Insurance, which



is an approved supplier of comprehensive property and casualty insurance. Some of our officers own an interest in Kona Software Affiliate, which is the only approved supplier of the business management software, KonaOS. Some of our officers own an interest in MCC, which is the only approved supplier of the BEV, the Additional Equipment, coffee products and certain branded merchandise. One of our directors is an officer of Eagle Financial Services, Inc., which is an approved supplier of financing. The owner of Eagle Financial Services, Inc. has an indirect small minority interest in us. During the last fiscal year, ending December 31, ~~2023~~2022, our affiliate, Kona Insurance collected revenue of \$29,082,973 from the sale of products or services to franchisees.

We estimate that approximately 70% of purchases required to open your Travelin' Tom's Coffee Franchise and 30% of purchases required to operate your Travelin' Tom's Coffee Franchise will be from us or from other approved suppliers or under our specifications. During our last fiscal year, ended December 31, ~~2023~~2022, we received \$5,804,901-18,857,570 in revenue from these required purchases. This number represents ~~96.297.8%~~ of our total revenues of \$6,035,314-19,276,571.

We have negotiated purchase arrangements with suppliers and distributors for the benefit of our Franchisees, and we may receive rebates or volume discounts (~~maximum of 3%~~) from our purchase of equipment and supplies that we resell to you. Other than these cooperatives, there are currently no other purchasing or distribution cooperatives in effect.

#### Approval of New Suppliers

We may update the list of approved suppliers in the Brand Manual. If you desire to have a non-approved supplier of a product or service designated as an approved supplier, you must submit samples of the supplier's products or services to us, along with a written statement describing why such items, services, or suppliers should be approved for use in the System. We may charge the cost of evaluating a proposed new vendor, supplier, or product to you, the vendor, or supplier. We do not make our supplier specifications and/or standards generally available to franchisees or suppliers. While we will be required to respond to a request within 60 days, we generally respond to a request for an additional approved supplier within seven days. Our written approval must be received before you use products not purchased from an approved supplier. We may revoke our approval at any time if we determine, in our discretion, that the supplier no longer meets our standards. You must stop selling any products and/or stop purchasing products from any supplier if we notify you we no longer approve of that specific product or supplier.

### ITEM 9 FRANCHISEE'S OBLIGATIONS

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

Obligation	Section in Franchise Agreement/ <del>Additional Franchise Reservation</del> ("FA") / Area Development Agreement ("ADA")	Franchise Disclosure Document Item
a. Site selection and acquisition/lease	Sections 2, 3A, and 3B/ <del>FA</del> Section 37 ADA Section 6	Items 7 and 11
b. Pre-opening purchases/leases	FA Sections 7 and 19 ADA Section 3/ <del>N/A</del> <del>Not Applicable</del>	<del>Item</del> Items 7, 8 and 11

c. Site development and other pre-opening requirements	FA Sections 3, 4A, 4B, 5A, 7 and 9/Sections 4 and 619 ADA Section 7	Item 7 and 11
d. Initial and ongoing training	Sections 5A, 5B, and 5C/Not Applicable FA Section 8 ADA Section N/A	Item 6, 7 and 11
e. Opening	FA Sections 7 and 12 ADA Section 3/Not Applicable7	Item 6, 7, 9 and 11
f. Fees	FA Sections 5, 6, 7, 8, 12, 13, 14, 16, 19, 20 and 21 ADA Section 4/Section 63	Items 5, 6 and 7
g. Compliance with standards and policies/ <del>Franchise Operations Manual</del> operating manual	FA Sections 5C, 5D9, 12 and 9/Not Applicable13 ADA Section N/A	Items 8, 15, 11, 12, 14 and 16Exhibit F
h. Trademarks and proprietary information	FA Sections 69, 14 and 7/Not Applicable17 ADA Section 1	Items 13 & 14
i. Restrictions on products/services offered	Sections 9B and 9D/Not ApplicableFA Section 13 ADA Section N/A	Items 8 and 16
j. Warranty and customer service requirements	Sections 1A, 1B and 9E/Not ApplicableFA Section 13 ADA Section N/A	Not ApplicableItems 1 and 11
k. Territorial development and sales quotas	FA Section 2/Not Applicable4 ADA Section 5	Item 1, 11 and 12
l. On-goingOngoing product/service purchases	FA Section 9D/Not Applicable13 ADA Section N/A	Item 8 and 16
m. Maintenance, appearance; and remodeling requirements	Sections 3 and 9/Not ApplicableFA Section 13 ADA Section N/A	Items 7, 8; and 11
n. Insurance	FA Section 9G/Not Applicable19 ADA Section N/A	Item 6, 7 and 8
o. Advertising	FA Section 10/Not Applicable12 ADA Section N/A	Items 6, 11, 13 and 14
p. Indemnification	FA Section 17D/Not Applicable22 ADA Section 13	Not ApplicableItem 6
q. Owner's participation/management and staffing	Sections 3, 5E, 5F, and 9F/Not ApplicableFA Section 10 ADA Section 12	Items 11, 15 and 17
r. Records and reports	FA Section 11/Not Applicable20 ADA Section N/A	Item 17
s. Inspections and audits	FA Section 12/Not Applicable21 ADA Section N/A	Item 6 and 11
t. Transfer	FA Sections 15 and 16 ADA Section 13/Section 79	Item 17
u. Renewal	FA Section 14/Not Applicable 5 ADA Section 2	Item 17
v. Post-termination obligations	FA Sections 18 and 25 ADA Section 16/Not Applicable8	Item 17
w. Non-competition covenants	FA Section 16D/Not Applicable 18 ADA Section 2	Item 17 and Exhibit I-2
x. Dispute resolution	FA Section 18/Not Applicable 27 ADA Section 17	Item 17

## ITEM 10 FINANCING

Except as stated below, neither we nor any agent or affiliate of ours offers direct financing. We do not guarantee your note, lease or obligation. We do not have any past or present practice to sell, assign or discount to any third party, in whole or in part, any financing arrangements. We reserve the right to offer further financing or assist franchisees in obtaining financing in the future.

At their sole discretion and if you qualify, the following lenders may offer you financing for the purchase of your BEV and/or initial inventory (“Financing”): (i) Eagle Financial Services, Inc. (“Eagle”); (ii) a hybrid of Ally Financial, Inc. (“Ally”) and Eagle (together, “Ally-Eagle”); (iii) Auxilior Capital Partners (“Auxilior”); and (iv) Osgood Bank (“Osgood Bank”). The owner of Eagle has an indirect small minority ownership interest in us. An officer of Eagle is also one of our directors.

### Auxilior Capital Partners

Auxilior may offer you Financing for the purchase of your KEV and initial inventory pack. You will be required to enter into a loan and security agreement (“Loan and Security Agreement”) attached in Exhibit H to this Franchise Disclosure Document. The following table summarizes the Financing Auxilior Capital Partners may offer you:

### SUMMARY OF AUXILIOR FINANCING OFFERED<sup>(1)</sup>

Item Financed	One BEV and initial inventory pack
Amount Financed	The full purchase price of BEV (currently <del>\$461,450</del> <u>\$171,950</u> ) to <del>\$176,450</del> <u>\$186,950</u> ) less \$20,000 down payment, plus purchase price of initial inventory pack (currently \$11,500)
Down Payment	Balance of purchase price after Financing amount has been determined (not less than \$20,000)
Term	36 to 66 months (includes up to 6 months of deferments)
APR %	(A Credit) 8.2499% (regardless of enrollment in deferments) or (B Credit) 10.49% to 10.99% (with deferments); up to 11.99% for first year only under interest-only plan (if allowed); rates may vary based on swap rates.
Monthly Payment	36 to 66 monthly installments (includes up to 6 months of deferments); may vary according to amount financed
Prepayment Penalty	One percent (1%) for each year or partial year remaining on the loan
Security Required	Partner or shareholder and personal guarantee and pledge of the Franchise <sup>(2)</sup>
Liability Upon Default	Late penalty of the higher of 10% of the amount due or \$25.00, as permitted by law; acceleration of amounts due; fees <sup>(3)</sup>
Loss of Legal Right On Default	Includes waiver of trial by jury and right to interpose any defense, set-off, or counterclaim of any nature or description <sup>(4)</sup>

As consideration for your use of this lender, we may receive trade show sales and marketing support, including trade show assistance and promotional materials. The specific amount of support and materials are negotiated on a case-by-case basis, but typically ranges from 0.0% to 0.5% of the principal amount for new loans during the year. We also receive sponsorship fees to support certain conventions, which range from 50 to 100 basis points (0.5% to 1%) of the principal amount for new loans and from 50

to 150 basis points (0.5% to 1.5%) of the principal amount for refinances. Neither we nor any affiliate or agent receives any additional consideration for our franchisees' use of this lender for Financing.

Notes:

1. Auxilior Capital Partners reserves the right to change the terms, interest rate, and amounts financed.
2. Payment structure will reflect the seasonal nature of the Travelin' Tom' Business. During the first year, contract payment of \$100/per month will be required in off-season months (up to four months) and during the second year, contract payments of \$100/per month in off-season months (up to two months) will be required. Payments made during the remaining in-season months of the year will be higher to allow for repayment of the loan and will vary based on the loan amount (equal to the current price of one BEV and one initial inventory pack, less any down payment) and the borrower's interest rate, which is determined by credit score and subject to swap rates\* (ranging from 7.5% for higher credit scores to 9.99% for lower credit scores, or up to 11.99% if an interest-only plan is allowed). \*Rates listed are as of March 31, 2021. Interest would continue to accrue at the standard rate during the off season period.
3. If your franchisee entity is a partnership, corporation, or other recognized legal entity, the Loan and Security Agreement must be guaranteed individually by all partners or shareholders. The Loan and Security Agreement must be secured by the assets of the Travelin' Tom's Coffee Franchise.
4. If you are late on your payments, Auxilior Capital Partners can charge a late penalty. In the case of nonpayment or other default under the Loan and Security Agreement, Auxilior Capital Partners can require immediate payment of all amounts due them and can collect reasonable attorney fees and all costs and expenses of collection.
5. The Loan and Security Agreement requires that you waive trial by jury and the right to interpose any defense, set-off, or counterclaim of any nature or description. Arbitration or trial by judge will take place on an individual basis without any form of class action. Auxilior is not liable for specific performance for any loss, damages, delay or failure to deliver equipment.

#### Osgood Bank Financing

Osgood Bank may offer you Financing for the purchase of your BEV and initial inventory and equipment. You will be required to enter into a promissory note, guaranty, security agreement ("Promissory Note and Security Agreement") attached in Exhibit H to this Franchise Disclosure Document. The following table summarizes the Financing Osgood Bank may offer you:

#### **SUMMARY OF OSGOOD BANK FINANCING OFFERED<sup>(1)</sup>**

Item Financed	One BEV and initial inventory pack
Amount Financed	The full purchase price of BEV and related equipment and inventory, less any down payment made by borrower to MCC
Down Payment	Balance of purchase price after financing amount has been determined
Term	3060 to 6072 months

APR %	APR% Rate is fixed for the life of loan. Rate varies based on personal credit score of applicants as shown below (rates subject to change with WSJ Prime):	
	640-700 score	WSJ Prime + 4.25%, currently 8.459.99%
	700-750 score	WSJ Prime + 3.50%, currently 8.15%
	750+ score	WSJ Prime +2.75%, currently 7.858.75%
Monthly Payment	60 installment payments <sup>(2)</sup>	
Prepayment Penalty	Two percent (2%) of the original loan balance if paid in full during the first two years of the loan	
Security Required	Personal Guaranty of Owner, Partner or Shareholder and pledge of the Franchise <sup>(3)</sup>	
Liability Upon Default	Late penalty; acceleration of amounts due; fees <sup>(4)</sup>	
Loss of Legal Right On Default	Waiver of trial by jury and right to interpose any defense, set-off, or counterclaim of any nature or description <sup>(5)</sup>	
Fee(s)	\$200 Documentation Fee. Amount can be financed in loan.	

Neither we nor any affiliate or agent receives any consideration for our franchisees' use of Osgood Bank for Financing.

Notes:

1. Osgood Bank reserves the right to change the terms, interest rate and amounts financed.
2. Payment structure will reflect the seasonal nature of the Travelin' Tom's Business. During the off-season (up to three months) of every year, contract payments of \$100/per month will be required. Payments made during the in-season (the other nine months of the year) will be higher to allow for repayment of the loan to occur over 60 months and will vary based on the loan amount (equal to the current price of one BEV and one initial inventory pack, less any down payment) and the borrower's interest rate, which is determined by credit score (ranging from WSJ Prime + 4.25% for lower credit scores to WSJ Prime + 2.75% for higher credit scores). Interest would continue to accrue at the standard rate during the off-season period.
3. If your franchisee entity is a partnership, corporation, or other recognized legal entity, the Promissory Note and Security Agreement must be guaranteed individually by all partners or shareholders. The Promissory Note and Security Agreement must be secured by the assets of the Travelin' Tom's Coffee Franchise, including applicable titles.
4. If you are late on your payments, Osgood Bank can charge a late penalty. In the case of nonpayment or other default under the Promissory Note and Security Agreement, Osgood Bank can require immediate payment of all amounts due them and can collect reasonable attorney fees and all costs and expenses of collection.
5. The Promissory Note and Security Agreement requires that you waive trial by jury and the right to interpose any defense, set-off, or counterclaim of any nature or description.

## Eagle Financing

Eagle may also offer you Financing for the purchase of your BEV and initial inventory and equipment . You will be required to enter into a commercial promissory note (“Note”) attached in Exhibit H to this Franchise Disclosure Document. Neither we nor any affiliate or agent receives any consideration for our franchisees’ use of Eagle for Financing. The following table summarizes the financing Eagle may offer you:

### **SUMMARY OF EAGLE FINANCING OFFERED<sup>(1)</sup>**

Item Financed	Purchase price of a BEV and initial inventory pack
Amount Financed	The full purchase price of BEV and related equipment and inventory pack, less any down payment made by borrower to MCC
Down Payment	Balance of purchase price after Financing amount has been determined
Term	36 months
APR %	9 <u>10</u> .99%
Monthly Payment	36 equal monthly installments; varies according to amount financed
Prepayment Penalty	None
Security Required	Partner or shareholder and personal guarantee and pledge of the Franchise <sup>(2)</sup>
Liability Upon Default	Late penalty, including accrued interest as allowed by law; acceleration of amounts due; fees <sup>(3)</sup>
Loss of Legal Right On Default	Includes waiver of trial by jury and right to interpose any defense, set-off, or counterclaim of any nature or description <sup>(4)</sup>

#### Notes:

1. If your franchisee entity is a partnership, corporation or other recognized legal entity, the Note must be guaranteed individually by all partners or shareholders. The Note must be secured by the assets of the Travelin’ Tom’s Coffee Franchise.
2. In the case of nonpayment or other default under the Note, Eagle can require immediate payment of all amounts due them, and can collect reasonable attorney fees and all costs and expenses of collection.
3. The Note requires that you waive trial by jury and the right to interpose any defense, set-off or counterclaim of any nature or description, as well as waive demand, presentment, protest, notice of dishonor, notice of protest, notice of default and all suretyship defenses.

## Ally-Eagle Financing

Ally and Eagle in combination may also offer you Financing for the purchase of your BEV and initial inventory pack. You will be required to enter into the Note for Eagle and a Retail Installment Contract – Motor Vehicle – Simple Interest for Ally (“Retail Contract”) both attached in Exhibit HI to this Franchise Disclosure Document. Neither we nor any affiliate or agent receives any consideration for our franchisees’ use of Ally-Eagle for Financing. The following table summarizes the financing Ally-Eagle may offer you:

### **SUMMARY OF ALLY-EAGLE FINANCING OFFERED<sup>(1)</sup>**

Item Financed	Purchase price of one BEV and initial inventory pack
Amount Financed	Full balance of BEV (currently \$161,450 <del>171,950</del> to \$176,450 <del>186,950</del> ) plus initial inventory pack (currently \$11,500), split between Ally and Eagle
Down Payment	Balance of purchase price after Financing amount has been determined
Term	60 months
APR %	For Ally portion of loan: rate based on credit application results (best results have been approved at 7 <del>10</del> %, subject to change) For Eagle portion of loan: 9 <del>10.99</del> %
Monthly Payment	For Ally portion of loan: 60 equal monthly installments; varies according to amount financed and rate For Eagle portion of loan: 60 equal monthly installments; varies according to amount financed
Prepayment Penalty	None
Security Required	Partner or shareholder and personal guarantee and pledge of the Franchise <sup>(2)</sup>
Liability Upon Default	Late penalty, including 5% of the installment if the installment is in excess of \$200, or \$10.00 if the installment is for \$20 or less (Ally); and late penalty; including accrued interest as allowed by law; acceleration of amounts due; fees <sup>(3)</sup> (Eagle); acceleration of amounts due; fees <sup>(3)</sup>
Loss of Legal Right On Default	Includes waiver of trial by jury and right to interpose any defense, set-off, or counterclaim of any nature or description <sup>(4)</sup>

#### Notes:

For the Ally portion of the loan: the Financing for the chassis and hard components is paid in 60 equal monthly installments of an interest rate based on credit application results.

For the Eagle portion of the loan: the Financing for the remaining portion of the BEV and inventory pack is paid in 60 equal monthly installments at an interest rate of 9.99%.

#### Notes:

1. If you elect this option, you will submit an application to Ally, and if approved by Ally, Ally will finance up to \$65,000 of your BEV. Once Ally has approved your application, a separate



application is not required by Eagle. If approved, Eagle may finance the remaining balance of your BEV.

2. If your franchisee entity is a partnership, corporation or other recognized legal entity, the Retail Contract and Note must be guaranteed individually by all partners or shareholders. The Retail Contract and Note must be secured by the assets of the Travelin' Tom's Coffee Franchise.
3. If you are late on your payments, Ally and Eagle can charge a late penalty. In the case of nonpayment or other default under the Retail Contract and Note, Ally and Eagle can require immediate payment of all amounts due them, and can collect reasonable attorney fees and all costs and expenses of collection.
4. The Retail Contract and Note require that you waive trial by jury and the right to interpose any defense, set-off or counterclaim of any nature or description, a waiver of demand, presentment, protest, notice of dishonor, notice of protest, notice of default and all suretyship defenses (Eagle), and arbitration or trial by judge will take place on an individual basis without any form of class action and the lender is not liable for specific performance for any loss, damages, delay or failure to deliver equipment (Ally).

## ITEM 11

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

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

#### Pre-opening Obligations

Before you open the Travelin' Tom's Business, we (or our affiliate or designees) will provide the following assistance and services to you:

1. Agree to the Protected Territory in which you will operate your Travelin' Tom's Business before you purchase the Travelin' Tom's Coffee Franchise. If you sign an Area Development Agreement, we will designate the Development Territory before you sign the Area Development Agreement. If we cannot agree on a territory location, we will not award you a Travelin' Tom's Coffee Franchise. Because you do not have to locate a site from which to operate your Travelin' Tom's Business, we do not provide you with assistance in doing so. You may open an office, but it is not required and does not need to be approved by us. You must find a location to store the BEV and any Additional Equipment, which may be at your residence if permitted (Franchise Agreement – ~~Sections 3A and 3B~~ Section 4).

2. Provide you with mandatory and discretionary specifications for the Travelin' Tom's Business, including standards and suggested criteria for design, image, and branding of the BEV and Additional Equipment (Franchise Agreement – ~~Sections 3 and 9~~ Section 13).

3. Identify products, supplies, and designated and approved suppliers that you must use to develop and operate the Travelin' Tom's Business, and establish minimum standards and specifications that you must satisfy while operating the Travelin' Tom's Business (Franchise Agreement – ~~Sections 3 and 9~~ 13).

4. Loan to you or make available to you on our website one copy of our Brand Manual. The Brand Manual contains approximately 390 pages. The table of contents for the Brand Manual is attached to this Franchise Disclosure Document as Exhibit EF (Franchise Agreement – ~~Section 5D9.1~~ Section 5).



5. Provide an initial training program (Franchise Agreement – Section ~~5A~~8.1).

6. Provide you with the BEV. We reserve the right to establish requirements regarding the design, image, and branding of the BEV, and the right to control and approve all content of the BEV, including the right to use the BEV to advertise our brand, products, and services (Franchise Agreement – ~~Sections 3 and 9~~Section 13.13).

7. Provide you with advice and guidance regarding your pricing policies in compliance with the applicable laws. We have the right to recommend retail prices and prescribe minimum and/or maximum retail prices for the products and/or services offered and sold at your Travelin' Tom's Business, as allowed by law. (Franchise Agreement – Section ~~9~~13.1).

We do not provide the above services to renewal franchisees and may not provide all of the above services to franchisees that purchase existing Travelin' Tom's Businesses.

#### Schedule for Opening

We estimate that it will take two to 12 weeks after you sign the Franchise Agreement before you open your Travelin' Tom's Business. The factors affecting this length of time include the time necessary for you to obtain the BEV and equipment, schedule your initial training, and hire and train any necessary employees.

#### Continuing Obligations

During the operation of your Travelin' Tom's Business, we (or our affiliates or designees) will provide the following assistance and services to you:

1. Provide advice regarding the Travelin' Tom's Business operations based on your reports and our inspections, upon reasonable request. We also will guide you on standards, specifications, and operating procedures, and methods that Travelin' Tom's Businesses use; purchasing required and authorized operating assets and other items and arranging for their distribution to you from us or the suppliers; advertising and marketing materials and programs; employee training; and administrative, bookkeeping, accounting, and inventory control procedures. We will guide you through the Brand Manual in bulletins or other written materials, through the use of electronic media, telephone conferences, and/or meetings at our offices or at your Travelin' Tom's Business (Franchise Agreement – Section ~~5C~~9.2).

2. Continue to loan to you or make available to you on our website one copy of the Brand Manual, which may consist of electronic media, and/or written materials. We may modify the Brand Manual periodically to reflect changes in System Standards (Franchise Agreement – Section ~~5D~~9.1).

3. Periodically modify System Standards, and those modifications may require you to invest additional capital in the Travelin' Tom's Business and/or incur higher operating expenses (Franchise Agreement – ~~Section 9~~Sections 9.1 and 13.1).

4. License to you for your use confidential and proprietary information designed to assist you in the operation of the Travelin' Tom's Business (Franchise Agreement – Section ~~7~~17).

5. License the Marks to you (Franchise Agreement – ~~Sections 6A and 6B~~Section 17).

6. Maintain and administer one or more websites to advertise, market, and promote Travelin' Tom's Businesses and the services and products offered (each a "Website") (Franchise Agreement – Section ~~10E~~9.3).

7. Provide for your BEV to come wrapped in vinyl containing the Travelin' Tom's Coffee® design and insignia. You are required to update the wrap every seven years, or sooner, if needed, at your expense to comply with our current System Standards. All necessary updates, removal of vinyl, and installation of vinyl must be performed at an authorized upfit facility. The current authorized upfit facility is currently located in Florence, Kentucky (Franchise Agreement – Section ~~3E~~13.13).

8. Provide additional training to you for newly-hired personnel regarding the Travelin' Tom's Coffee brand and System Standards through our learning management system, refresher training courses, and additional training or assistance that you need or request, subject to our discretion. We may require you to pay additional fees for this training or assistance (Franchise Agreement – Section ~~5~~8).

#### Optional Assistance

During the term of the Franchise Agreement, we (or our affiliates or designees) may, but are not required to, provide the following assistance and services to you:

1. Modify, update, or change the System, including the adoption and use of new or modified trade names, trademarks, service marks, or copyrighted materials, new products, new menu items, new equipment, or new techniques.

2. Maintain and administer the Brand Fund. We may dissolve the Brand Fund upon written notice (Franchise Agreement – ~~Section 10A and 10B~~11).

3. Hold periodic national or regional conferences to discuss business and operational issues affecting Travelin' Tom's Coffee franchisees.

4. Reserve the right to establish minimum and maximum resale prices for use with multi-area marketing programs and special price promotions as allowed by law.

Our affiliate, Kona Insurance, may offer a comprehensive property and casualty insurance program to you.

#### Advertising

##### *Brand Fund*

We have established a Brand Fund for Travelin' Tom's Businesses. You must pay \$1,000 per year to the Brand Fund for each Travelin' Tom's Coffee Franchise you own; and \$200 per year for each piece of Additional Equipment you operate. This amount can be raised annually by up to 10% in our sole discretion. The amount of the Brand Fund contribution may also be increased at any time upon super-majority (75%) of the Ad Council (which is defined below) and upon 30 days' notice to you of the increase. The Brand Fund may be held in a separate bank account, commercial account, or savings account, but we are not required to do so. The Brand Fund is administered by us or one of our affiliates, and we may use a professional advertising agency or media buyer to assist us with the supervision and administration of the Brand Fund. Sources for advertising materials We may include preparation in-house, as well as use national and/or regional advertising agencies as the source for our advertising materials, or we may prepare them

in-house. Your contribution to the Brand Fund will be in addition to all other advertising requirements set out in this Item 11.

We may reimburse ourselves, our authorized representatives, or our affiliate from the Brand Fund for administrative costs, independent audits, reasonable accounting, bookkeeping, reporting and legal expenses, taxes, and all other reasonable direct or indirect expenses that may be incurred by us or our authorized representatives and associated with the programs funded by the Brand Fund. We assume no fiduciary duty to you or other direct or indirect liability or obligation to collect amounts due to the Brand Fund or to maintain, direct, or administer the Brand Fund. Any unused funds in any calendar year will be applied to the following year's funds, and we reserve the right to contribute or loan additional funds to the Brand Fund on any terms we deem reasonable. Because we do not have this fund audited, audited financial statements are not available to Travelin' Tom's Coffee franchisees. We will provide to you each year an annual accounting for the Brand Fund that shows how the Brand Fund proceeds have been spent for the previous year upon written request (Franchise Agreement – Section ~~10B11~~). We do not guarantee that advertising expenditures from the Brand Fund will benefit you or any other franchisee directly, on a pro rata basis, or at all.

We are not obligated to spend any amount on advertising in the geographical area where you are or will be located. We may use the Brand Fund for local, regional or national marketing, and any other purpose to promote the Travelin' Tom's brand. We will not use the Brand Fund payments for advertising that is principally a solicitation for the sale of Franchises, but we reserve the right to include a notation in any advertisement indicating "Franchises Available" or similar phrasing.

During our most recent fiscal year ended December 31, 2023, the Brand Fund was spent as follows: 77.69% on content creation, 5.89% with Google AdWords, 15.90% for social media advertising, 0% on public relations, and 0.52% on print and email marketing. ~~2022, we did not spend any funds from the Brand Fund.~~

### *Local Advertising*

You are not required to advertise on a local basis as an individual Travelin' Tom's Business, and you are not required to spend a minimum of your gross revenues on local marketing and promotion in your Protected Territory. You are not required to participate in a local or regional advertising cooperative. We may conduct market research and testing to determine consumer trends and the marketability of new food products and services. You agree, at your sole cost and expense, to issue and offer such rebates, giveaways, and other promotions in accordance with advertising programs established by us, and further agree to honor the rebates, giveaways, and other promotions issued by other Travelin' Tom's Coffee franchisees under any such program, so long as such compliance does not contravene any applicable law, rule, or regulation. You will not create or issue any gift cards/certificates and will only sell gift cards/certificates that have been issued or sponsored by us and which are accepted at all Travelin' Tom's Businesses, and you will not issue coupons or discounts of any type except as approved by us. We may conduct market research and testing to determine consumer trends and the marketability of new food products and services.

You will not participate in any crowdfunding campaigns or similar money-raising programs for your Travelin' Tom's Business. You agree to cooperate by participating in our market research programs, test marketing new food products and services in the Travelin' Tom's Business and providing us with timely reports and other relevant information regarding such market research. You must conduct and participate in promotional campaigns ("Promotions") which we may periodically require in the Brand Manual, and you must conduct and participate in those Promotions in accordance with the policies and provisions set forth in the Brand Manual. This may include requiring you to offer free products to customers on certain

days or providing coupons (not to exceed \$500 per year unless authorized by the Ad Council). The value of Promotions you must offer may be increased at any time upon super-majority (75%) of the Ad Council and upon 30 days' notice to you of the increase, but will not exceed more than \$1,500 per year. If we require you to conduct and participate in any Promotion, we reserve the right (but we are not required) to use a portion of the Brand Fund to defray a portion of any costs attributable to the Promotions (Franchise Agreement – Section ~~10D~~11). If we exercise this right, we will use the Brand Fund on a pro rata basis.

It is a material breach of the Franchise Agreement to use other marketing material, logos, and our Marks without obtaining our prior written approval. If you desire to use your own advertising materials, you must obtain our prior approval, which may be granted or denied in our sole discretion. We will review your request and we will respond in writing within 30 days from the date we receive all requested information. Our failure to notify you in the specified time frame will be deemed a disapproval of your request. Use of logos, Marks, and other name identification materials must be consistent with our approved standards (Franchise Agreement – Section ~~10B and 10D~~12.4).

### *System Website*

We have established a website for Travelin' Tom's Businesses ("System Website"). Additionally, we reserve the right to develop a local website or local pages on the System Website. If you wish to advertise online, you must follow our online policy, which is contained in our Brand Manual. Our online policy may change as technology and the internet changes. Under our online policy, we may retain the sole right to market on the internet, including all use of websites, domain names, advertising, and co-branding arrangements. We may restrict your use of social media. We may prohibit you from independently marketing on the internet, or using any domain name, address, locator, link, metatag, or search technique with words or symbols similar to the Marks. We intend that any franchisee website will be accessed only through our home page. As long as we maintain a System Website, we will have the right to use the Brand Fund assets to develop, maintain, and update the System Website.

We are only required to reference your Travelin' Tom's Business on the System Website while you are in full compliance with your Franchise Agreement and all System Standards. If you are in default of any obligation under the Franchise Agreement or System Standards, then we may temporarily remove references to your Travelin' Tom's Business from the System Website until you fully cure the subject default(s) (Franchise Agreement – Section ~~10E~~9.3).

### *Ad Council*

We intend to create a brand advisory board ("Ad Council") to help determine the type of advertising (television, radio, billboard, internet, or other medium) we will use. Members of the Ad Council would consist of franchisees and at least one franchisor representative. We plan to have franchisees serve two-year terms. In order to be chosen for the Ad Council, the franchisee must be in good standing, operate multiple Franchises, and be actively involved in the betterment of the Travelin' Tom's Coffee System. Your Brand Fund Contributions and costs to participate in Promotions may be increased or decreased at any time upon super-majority (75%) approval of the Ad Council, upon 30 days' notice to you. We have the power to change the Ad Council, the selection process, and the members at any time. We also have the power to dissolve the Ad Council.

### E-Lead Program

We operate a digital marketing service ("E-Lead Program") where we manage the placement of our franchisees' digital advertisements. Franchisees that enroll in our E-Lead Program pay an annual, non-refundable administrative fee of either \$250 (for E-Lead Lite) or \$500 (for E-Lead Plus), plus the actual

costs of the digital advertisements. The E-Lead Program is currently optional, but we reserve the right to make it mandatory in the future upon 60 days' written notice.

### Computer System

You must have regular access to a computer that is capable of connecting to the internet for the operation of your Travelin' Tom's Business. You may use a computer that you own. If you choose to purchase a computer, we estimate the cost to range up to \$1,000. You are responsible for implementing and maintaining all necessary cybersecurity measures, including anti-virus protection, for your computer system to protect against unauthorized access and data breaches, in compliance with applicable laws and our guidelines. You may need to buy and/or license third-party software such as QuickBooks and Microsoft Office to use in the operation of your Travelin' Tom's Business. You must use the KonaOS software. We reserve the right to specify required computer hardware or software and to specify other computer-related standards in the future. We may require you to purchase other point-of-sales hardware and/or software ("POS System") in the future. Travelin' Tom's Coffee will not have independent access to the information generated by or stored in your computer, but you are required to provide sales and other reports that we require in the Brand Manual. You must periodically check your email and the portion of our website devoted to franchise owners. We reserve the right to market and sell over the internet. You must use any payment vendors and methods that we determine.

We need not provide you with any ongoing maintenance, repairs, upgrades, updates, or support for the Computer System (Franchise Agreement – Section 3€14.1). You must arrange for installation, maintenance, and support of the Computer System at your cost. There are no limitations in the Franchise Agreement regarding the costs of such required support, maintenance, repairs, or upgrades relating to the Computer System. While we do not require you to purchase a computer, you may need to upgrade your hardware and/or software in order to utilize the computerized system as technological advances require, which may include a POS System. You will be responsible for the cost of such upgrades, which we estimate to be between \$0 and \$250 annually.

### Training

#### *Initial Training*

Your Managing Owner (defined in Item 15) and any designated manager or representative that we require must complete the training program to our reasonable satisfaction before you open your Travelin' Tom's Business. You will be enrolled in the initial training program which we call "Koffee Kollege."Tom's Coffee Academy." We provide initial training at no cost for one attendee. We will pay for hotel and airfare for one attendee for our initial training program in Florence, Kentucky; however, you are responsible for all other expenses to attend the initial training program, including any ground transportation, food and similar expenses. Franchisees that purchase existing Travelin' Tom's Coffee Franchises as a result of a transfer are also required to attend Koffee KollegeTom's Coffee Academy and are responsible for their own travel and hotel expenses. Initial training classes are held whenever necessary to train new franchisees. You will not receive any compensation or reimbursement for services or expenses for participation in the initial training program. You are responsible for all expenses for any additional attendees to attend any training program, including lodging, transportation, food, and similar expenses. We plan to provide the training listed in the table below. The hours presented for each subject are estimates and may change as our training program continues to evolve.

## TRAINING PROGRAM

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
BEV & Equipment Operation	<del>04</del>	4	Our corporate office in Florence, Kentucky
BEV & Equipment Maintenance	<del>02</del>	4 <del>2</del>	Our corporate office in Florence, Kentucky
Field Sales and Customer Service	<del>08</del>	8-12 <del>4</del>	Our corporate office in Florence, Kentucky
TOTAL HOURS	<del>014</del>	16-20 <del>10</del>	

### Notes:

- The training may be less than the times indicated above depending on the number and experience of the attendees. Training includes actual operation of a BEV under our supervision. The instructional materials for the training program consist of the BEV and its equipment, manufacturer brochures and operational manuals, and the Brand Manual.
- Tony Lamb, our CEO, President, Secretary and Board Member, currently oversees our training program to which he brings more than 25 years of management experience. Mr. Lamb also brings his experience as the Chief Executive Officer, President and Secretary, and member of the Board of Directors of Affiliate Franchisor since 2008. Other training staff will include manager-level individuals who have at least two years of experience in the subject matters that they teach.

### *Ongoing Training*

We may require that you, designated managers, and other employees periodically attend system wide refresher or additional training courses. Some of these courses may be optional, while others may be required. If you appoint a new designated manager, that person must attend and successfully complete our initial training program before assuming responsibility for the management of your Travelin' Tom's Business. If we conduct an inspection of your Travelin' Tom's Business and determine you are not operating in compliance with the Franchise Agreement or our System Standards, we may require you to temporarily close your Travelin' Tom's Business, and we may require that you attend remedial training that addresses your operational deficiencies and pass our inspection before reopening. You may also request that we provide additional training (either at corporate headquarters or at your Travelin' Tom's Business). You are responsible for costs and expenses for all training attendees. We may charge a fee for providing training and may require you to reimburse us for our associated costs and expenses.

## ITEM 12 TERRITORY

### Franchise Agreement

The Franchise Agreement for your Travelin' Tom's Business grants you an exclusive territory. Your Protected Territory will be based on the geographic area and population properties within that area and other relevant demographic characteristics. We will generally grant only one license to a franchisee for any area with a population up to 100,000. We will use the population as listed on zip-codes.com, which



is derived from known delivery information, household occupancy rates, as well as any other sources that we believe are reliable for determining the current population in and around your Protected Territory. In certain densely populated metropolitan areas, a territory may be considerably smaller, while franchisees operating in less densely populated urban areas may have significantly larger areas. If the population of your Protected Territory increases by more than 25%, we may reduce the size of your Protected Territory to 100,000 people unless you purchase an additional BEV.

You will operate a single Travelin' Tom's Business and a single BEV within the Protected Territory identified in the Franchise Agreement. You are not restricted from the amount of Additional Equipment that you may operate in your Protected Territory. Your Protected Territory will be identified in an exhibit to your Franchise Agreement. The boundaries of your Protected Territory will coincide with the boundaries of one or more adjacent zip codes. You will be permitted to engage in direct advertising and solicitation of clients only within the boundaries of your Protected Territory unless we approve otherwise. Other than as described below, while the Franchise Agreement is in effect and you are not in default, we and our affiliate will not, in your Protected Territory, operate a company-owned unit or grant a franchise for a similar or competitive business. You will only have the right to operate the Travelin' Tom's Business in your Protected Territory under the terms and conditions of the Franchise Agreement, and we reserve all other rights to ourselves and our affiliate. You may not operate, solicit, or accept orders outside your Protected Territory unless we allow otherwise in our sole discretion. We have no plans to allow franchisees to solicit or accept orders outside of their Protected Territory other than in an open territory on a case-by-case basis.

We reserve all rights not expressly granted in the Franchise Agreement. Affiliate Franchisor's franchisees may operate Kona Ice franchises in your Protected Territory. We or our affiliate may own, operate, or authorize others to own or operate Travelin' Tom's Businesses or any other form of Travelin' Tom's Coffee's business outside your Protected Territory, including co-branding activities, and may operate other kinds of businesses under other marks within your Protected Territory. We and our affiliate may conduct, or authorize others to conduct, any form of business at any location selling any type of product or service not offered under the Marks. We reserve the right to purchase or be purchased by, or merge or combine with, to convert to the System, or be converted into a new system or chain with any business, whether franchised or corporately owned, including a business that competes directly with your Travelin' Tom's Business, wherever located, provided that in such situations the newly acquired business(es) may not operate under the Marks inside of your Protected Area; and to implement multi-area marketing programs which may allow us or others to solicit or sell to customers anywhere. We reserve the right to issue mandatory policies to coordinate such multi-area marketing programs.

Although we have not done so, we and our affiliate may sell products under the Marks within and outside your Protected Territory through any method of distribution other than through a dedicated Travelin' Tom's Business, including sales through such channels of distribution as the internet, mail order sales, telemarketing, or other direct marketing sales, wholesalers, unrelated retail outlets or other distribution outlets (together, "Alternative Distribution Channels"). You may not use Alternative Distribution Channels to make sales outside or inside your Protected Territory and you will receive no compensation for our sales through Alternative Distribution Channels except as described in the following paragraph.

If we engage in electronic commerce through the internet, or sell through any other Alternative Distribution Channel, and we receive orders for any products or services calling for delivery or performance in your Protected Territory, then we will offer the order to you at the price we establish. If you choose not to fulfill the order or are unable to do so, then we, our affiliate, or a third party we designate



(including another Travelin' Tom's Business) may fulfill the order, and you will be entitled to no compensation in connection with the sale.

Your Travelin' Tom's Business and Protected Territory do not depend upon obtaining any certain sales quotas, sales goals, or market penetration. You must not relocate the Travelin' Tom's Business without obtaining our written consent of the relocation. If you wish to purchase an additional Travelin' Tom's Business, you must apply to us, and we may offer an additional Franchise to you.

If you wish to revise, amend, or relocate your Protected Territory, you must apply to us to do so, and we may, but are not required, to grant your request. We may condition our approval of such request on any terms or conditions which we deem reasonable, including, but not limited to, requiring you to pay an Initial Territory Adjustment Fee or a Territory Relocation Fee of \$2,500 as discussed in Item 6.

~~Except as described below for Kona Ice franchisees, we~~ We do not grant a right of first refusal to franchisees to purchase new or existing Travelin' Tom's Businesses, but we do allow you to reserve adjacent territories by signing the Additional Franchise Reservation Agreement and paying the Reservation Fee. We may also allow certain franchisees to open Fixed Location Businesses in their Protected Territory.

You do not receive the right to acquire additional Travelin' Tom's Franchises unless you purchase the right in your Area Development Agreement. You are not given a right of first refusal on the sale of existing Travelin' Tom's Franchises.

#### Area Development Agreement

You are assigned a Development Territory in the Area Development Agreement. You must develop a designated number of Travelin' Tom's Franchises in the Development Territory. The size of the Development Territory will depend on the number of Travelin' Tom's Businesses to be developed, the demographics of the territory, the population and other factors. If you are a Kona Ice franchisee that operates multiple Kona Ice franchised businesses then the size of the Development Territory will typically be the same as the territories under your Kona Ice franchise agreements. The size of the Development Territory may be a single or multi-city area, single county area or some other area, and will be described in Attachment A of your Area Development Agreement. We will determine the Development Territory before you sign the Area Development Agreement based on various market and economic factors. In certain densely populated metropolitan areas, a Development Territory may be small if it has a high population density, while Development Territories in less densely populated urban areas may have significantly larger areas.

The Development Territory will be an exclusive territory for the development of Travelin' Tom's Franchises during the term of the Area Development Agreement so long as you are in compliance with the Area Development Agreement and each franchise agreement with us and our affiliates. This exclusivity grants you the exclusive rights to open a certain number of Franchises in the Development Territory. The rights granted under the Area Development Agreement relate only to the development of the Travelin' Tom's Franchises identified in the Area Development Agreement. So long as you are in compliance with the Area Development Agreement, we will not establish or franchise others to establish another Travelin' Tom's Business within your Development Territory during the term of the Area Development Agreement. If you are also a Kona Ice franchisee and the protected territory of your Kona Ice franchised business overlaps with or is located inside the Development Territory, we may remove those portions of your Development Territory if you transfer your Kona Ice franchised business or otherwise lose the protected territory of your Kona Ice franchised business.

We may conduct any other type of activities within your Development Territory that we are permitted to conduct under the Franchise Agreement. The Development Territory will terminate upon the earlier of completion of the Development Schedule or the termination of the Area Development Agreement. After the termination or expiration of the Area Development Agreement, the only territorial protections that you will receive upon termination will be those under each individual franchise agreement.



Any failure to adhere to the Development Schedule will constitute a material event of default under the Area Development Agreement and we may: (i) terminate the Area Development Agreement; (ii) reduce the area of the Development Territory; (iii) permit you to extend the Development Schedule; or (iv) pursue any other remedy we may have at law or in equity, including, but not limited to, a suit for non-performance.



### ITEM 13 TRADEMARKS

The Marks and the System are owned by us. No agreement significantly limits our right to use or license the Marks in any manner material to the in any manner material to the Travelin' Tom's Coffee Franchise. You may also use other future trademarks, service marks, and logos we approve to identify your Travelin' Tom's Coffee Franchise. We have registrations for the following trademarks with the United States Patent and Trademark Office ("USPTO"):


Mark	Registration No.	Registration Date	Register
TRAVELIN' TOM'S COFFEE TRUCK	6,694,159	April 5, 2022	Principal
TRAVELIN' TOM'S	6,701,459	April 12, 2022	Principal
TRAVELIN' TOM'S COFFEE TRUCK	6,914,042	November 29, 2022	Principal
TRAVELIN' TOM'S	6,914,041	November 29, 2022	Principal
	<u>7,265,989</u>	<u>January 9, 2024</u>	<u>Principal</u>

We have applied for registrations for the following trademarks with the USPTO:

Mark	Serial No.	Filing Date	Status
	<u>98,038,264</u>	<u>June 12, 2023</u>	<u>Pending on the Principal Register</u>
	<u>98,038,282</u>	<u>June 12, 2023</u>	<u>Pending on the Principal Register</u>
TOM'S COFFEE TRUCK <u>TILT ENERGY</u>	<u>90,646,261</u> <u>97,870,855</u>	<u>April 14, 2021</u> <u>3, 2023</u>	Pending on the Principal Register

Mark	Serial No.	Filing Date	Status
 <p><u>NITRO ENERGY</u></p> <p><u>TILT</u></p>	97,456,934 870,887	June 14, April 3, 2023 <del>2022</del>	Pending on the Principal Register
	98,017,089	May 28, 2023	<u>Pending on the Principal Register</u>

We claim common law rights in the following trademark:

Mark	Serial No.	Filing Date	Status
	N/A <u>Not applicable</u>	N/A <u>Not applicable</u>	Common Law

We do not have federal registrations for the principal ~~trademark~~trademarks in the two tables above (serial numbers ~~90,646,261 and 98,038,264~~, 98,038,282, 97,456,934870,855, 97,870,887, 98,017,089, and the common law trademark). Therefore, these trademarks do not have the same legal benefits and rights as a federally registered trademark. If our right to use any of these Marks is challenged, you may have to change to an alternative trademark, which may increase your expenses.

There are no effective adverse material determinations of the USPTO, the Trademark Trial and Appeal Board or the trademark administrator of any state, or any court, and no pending infringement, opposition or cancellation proceedings or material litigation involving the Marks. All required affidavits and renewals have been filed.

No agreement significantly limits our right to use or license the Marks in any manner material to the Travelin' Tom's Business. We do not know of any superior prior rights or infringing uses that could materially affect your use of the trademarks. You must follow our rules when using the Marks. You cannot use our name or Marks as part of a corporate name or with modifying words, designs, or symbols unless you receive our prior written consent. You must indicate to the public in any contract, advertisement, and with a conspicuous sign in your BEV that you are an independently owned and operated licensed franchisee of Mobile Coffee Company, LLC. You may not use the Marks in the sale of unauthorized services or products or in any manner we do not authorize. You may not use the Marks in any advertising for the transfer, sale, or other disposition of the Travelin' Tom's Business or any interest in the Franchise. All rights and goodwill from the use of the Marks accrue to us.

We will defend you against any claim brought against you by a third party that your use of the Marks in accordance with the Franchise Agreement infringes upon that party's intellectual property rights. We may require your assistance, but you are not permitted to control any proceeding or litigation relating to our Marks. We have no obligation to pursue any infringing users of our Marks. If we learn of an infringing user, we may take any action appropriate we deem appropriate, but we are not required to take any action if we do not feel it is warranted. You must notify us within three days if you learn that any party is using the Marks or a trademark that is confusingly similar to the Marks. We have the sole discretion to take such action as we deem appropriate to exclusively control any litigation or administrative proceeding involving a trademark licensed by us to you.

If it becomes advisable at any time, in our sole discretion, for us and/or you to modify or discontinue using any Mark and/or use one or more additional or substitute trademarks or service marks, you must comply with our directions within a reasonable time after receiving notice. We will not reimburse you for your direct expenses of changing signage, for any loss of revenue, or other indirect expenses due to any modified or discontinued Mark, or for your expenses of promoting a modified or substituted trademark or service mark.

You must not directly or indirectly contest our right to the Marks. We may acquire, develop, and use additional marks not listed here, and may make those marks available for your use and for use by other franchisees.

## **ITEM 14**

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

The information in the Brand Manual is proprietary and is protected by copyright and other laws. The designs contained in the Marks, the layout of our advertising materials, the content and format of our products, and any other writings and recordings in print or electronic form are also protected by copyright and other laws. Although we have not applied for copyright registration for the Brand Manual, our

advertising materials, the content and format of our products or any other writings and recordings, we claim common law and federal copyrights in these items. We grant you the right to use this proprietary and copyrighted information (“Copyrighted Works”) for your operation of your Travelin’ Tom’s Coffee Franchise, but such copyrights remain our sole property.

There are no determinations in effect that significantly limit our rights to use or license others to use the patents in any manner material to the franchise by the USPTO, the Patent Trial And Appeal Board, or the patent administrator of any state or any court, nor any pending interference, opposition or cancellation proceeding or litigation involving the patent.

We will defend you against any claim brought against you by a third party that your use of our patent in accordance with the Franchise Agreement that infringes upon that party’s intellectual property rights. We may require your assistance, but you are not permitted to control any proceeding or litigation relating to our patent. We have no obligation to pursue any infringing users of our patent. If we learn of an infringing user, we may take any action appropriate we deem appropriate, but we are not required to take any action if we do not feel it is warranted. You must notify us within three days if you learn that any unauthorized party is using the patent. We have the sole discretion to take such action as we deem appropriate to exclusively control any litigation or administrative proceeding involving the patents. We are not required to participate in your defense nor are we required to indemnify you for expenses or damages in a proceeding involving a patent, patent application, or copyright licensed to you. You must also agree not to contest our interest in these or our other trade secrets. If we decide to add, modify, or discontinue the use of an item or process covered by a patent or copyright, you must also do so.

We claim copyrights in the Brand Manual, which contains trade secrets, advertising and marketing materials, the Website, and similar items used in operating a Travelin’ Tom’s Business. We have not registered these copyrights with the United States Registrar of Copyrights, but need not do so at this time to protect them. You may use these items only as we specify while operating your Travelin’ Tom’s Business (and must stop using them if we so direct you).

There are no effective adverse determinations of the USPTO, the Copyright Office (Library of Congress), or any court regarding the copyrighted materials. No agreement limits our right to use or allow others to use the copyrighted materials. We do not actually know of any infringing uses of our copyrights that could materially affect your use of the copyrighted materials in any state. We need not protect or defend copyrights, although we intend to do so if in the System’s best interests. We may control any action we choose to bring, even if you voluntarily bring the matter to our attention. We need not participate in your defense and/or indemnify you for damages or expenses in a proceeding involving a copyright.

Our Brand Manual, passwords, and other materials contain our confidential information (some of which constitutes trade secrets under applicable law). This information includes site selection criteria; training and operations materials; methods, formats, specifications, standards, systems, procedures, sales and marketing techniques, knowledge, and experience used in developing and operating Travelin’ Tom’s Businesses; marketing and advertising programs for Travelin’ Tom’s Businesses; any computer software or similar technology that is proprietary to us or the System; knowledge of, specifications for, and suppliers of operating assets and other products and supplies; and knowledge of the operating results and financial performance of Travelin’ Tom’s Businesses other than your Travelin’ Tom’s Business.

All ideas, concepts, techniques, or materials concerning a Travelin’ Tom’s Business, whether or not they are protected intellectual property and whether created by or for you or your owners or employees, must be promptly disclosed to us and will be deemed to be our sole and exclusive property, part of the System, and works-made-for-hire for our use. If any item does not qualify as a “work-made-for-hire” for



us, you must assign ownership of that item, and all related rights to that item, to us and must take whatever action, including executing an assignment agreement or other documents, that we request to show our ownership or to help us obtain intellectual property rights in the subject item(s).

You may not use our confidential information in an unauthorized manner. You must take reasonable steps to prevent its improper disclosure to others and use non-disclosure and non-competition agreements with those having access to such information. We may regulate the form of confidentiality agreement that you use and must be included as a third-party beneficiary with independent enforcement rights in that agreement. No patents or patents pending are material to us at this time.

## **ITEM 15**

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

You must own your Travelin' Tom's Coffee Franchise through a legal entity. The sole purpose of your legal entity will be the development and operation of a Travelin' Tom's Coffee Franchise. The Travelin' Tom's Coffee Franchise shall be managed by one of your owners who is a natural person with at least a 51% ownership interest and voting power in the entity ("Managing Owner"). During the term of the Franchise Agreement, the Managing Owner shall directly supervise and participate in the day-to-day operation of the Travelin' Tom's Business.

Because franchisees who have actually been owner/operators in the past have generally proven to have greater success than passive owners, we require you or Managing Owner to be an active owner and operator of your Travelin' Tom's Business for at least the first 60 days that you operate as a Travelin' Tom's Coffee franchisee.

Under certain circumstances, after the first 60 days of operation, we may allow you to appoint a designated manager ("Designated Manager") who has been approved by us, to run the day-to-day operations of the Travelin' Tom's Business. The Designated Manager must successfully complete our ~~Koffee Kollege~~ Tom's Coffee Academy training program (See Item 11). The Designated Manager need not have an ownership interest in the Travelin' Tom's Business. If you replace a Designated Manager for any reason, the new Designated Manager must satisfactorily complete our ~~Koffee Kollege~~ Tom's Coffee Academy training program at your own expense.

Any Designated Manager and any officer that does not own equity in the Franchisee entity must sign the "System Protection Agreement," the form of which is attached to this Franchise Disclosure Document in Exhibit H. All of your employees, independent contractors, agents, or representatives that may have access to our confidential information must sign a "Confidentiality Agreement" (unless they already signed a System Protection Agreement), the current form of which is attached to this Franchise Disclosure Document in Exhibit H. Each direct and indirect owner (i.e., each person holding a direct or indirect ownership interest in your entity) of the Franchisee entity must sign an "OwnersFranchise Owner Agreement," the form of which is attached to the Franchise Agreement as Attachment C. We also require that the spouses of the Travelin' Tom's Coffee Franchise owners sign the ~~Owners~~ Franchise Owner Agreement. The ~~Owners~~ Franchise Owner Agreement extends the obligations of the Franchise Agreement to each owner and their spouse with each owner and spouse bound to and liable for the terms of the Franchise Agreement.



## ITEM 16 RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You must offer for sale only products and services that have been approved and specified by us in the Brand Manual and any updates that are periodically incorporated in the Brand Manual. You must sell or offer for sale all types of products and services specified by us. You may not offer for sale any products or services not specifically approved by us in writing. We reserve the right to establish minimum and maximum resale prices for use with multi-area marketing programs and special price promotions as allowed by law. There are no limitations on our rights to make changes to the required products and services offered by you.

Our online policy may completely prohibit you from any use of the Marks in social networking sites or other online use. You may not sell products through other channels of distribution such as wholesale, internet or mail order sales.

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

### THE FRANCHISE RELATIONSHIP

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

Provision	Section in Franchise Agreement/Additional Franchise Reservation Agreement	Summary
(a) Length of the Franchise term	Section <del>1D</del> <u>5.1</u> /Not Applicable	Ten years.
(b) Renewal or extension of the term	Section <del>14A</del> <u>5.1</u> /Not Applicable	If you are in good standing and you meet other requirements, you may apply for two successive terms of ten years.
(c) Requirements for Franchisee to renew or extend	<del>Sections 14A &amp; 14B</del> <u>Section 5.2</u> /Not Applicable	The term “renewal” refers to extending our franchise relationship at the end of your initial term and any other renewal or extension of the initial term. Your successor franchise rights permit you to remain as a Franchise after the initial term of your Franchise Agreement expires. Written notice must be provided and you must be fully compliant with the Franchise Agreement. You must sign our then-current Franchise Agreement and ancillary documents for the successor term, and this new franchise agreement may have materially different terms and conditions (including, e.g., higher royalty and advertising contributions) from the Franchise Agreement that covered your

Provision	Section in Franchise Agreement/Additional Franchise Reservation Agreement	Summary
		original term. You will be required to pay the highest tier of royalty payment under the new franchise agreement (meaning that you will not be able to take advantage of any step-up royalty schedules that may be offered to new franchisees).
(d) Termination by Franchisee	Section <del>15A</del> <u>23</u> /Not Applicable	You may terminate the Franchise Agreement if you are in compliance with it and we are in material breach, and we fail to cure that breach within <del>30</del> <u>60</u> days of receiving written notice, subject to applicable state law.
(e) Termination by franchisor without cause	Not Applicable/Not Applicable	Not Applicable.
(f) Termination by franchisor with cause	Section <del>15B</del> <u>24</u> /Section 8	We can terminate upon, among other things, certain violations of the Franchise Agreement by you. You will be in default under the Franchise Agreement and the Additional Franchise Reservation Agreement if any other franchise agreement or other agreement between you or your affiliates and us or any of our affiliates is terminated.
(g) "Cause" defined - curable defaults	Section <del>15B</del> <u>24</u> /Not Applicable	You have three days to cure health, safety, or sanitation law violations or failure to operate safely. You have ten days to cure monetary defaults. You have 30 days to cure the operational defaults listed in Section <del>15B</del> <u>24.3</u> of the Franchise Agreement: failure to satisfactorily complete the initial training program, or failure to comply with System Standards.
(h) "Cause" defined - non-curable defaults	Section <del>15B</del> <u>Sections 24.1 and 24.2</u> /Section 8	Non-curable defaults: the defaults listed in Section <del>15B</del> <u>Sections 24.1 and 24.2</u> of the Franchise Agreement, including misrepresentation, failure to open within three months of signing the Franchise Agreement, failure to operate the Travelin' Tom's Business for a period of 12 consecutive months, transfer violation, conviction or pleaded no contest to a felony, failure to maintain insurance, commit an action or inaction to adversely affect the System, unauthorized use or disclosure of any Confidential Information, failure to cure

Provision	Section in Franchise Agreement/Additional Franchise Reservation Agreement	Summary
		any health, safety or sanitation law violations within three days, failure to cure any other law violation within 48 hours, failure to pay taxes, failure to comply with the Franchise Agreement on three or more occasions within 12 consecutive months, your Travelin' Tom's Coffee Franchise is assigned or seized, you or your owners assets, property or interests are blocked related to terrorist activities, you have three or more insufficient funds or returned checks in any one calendar year, you indicate in writing your intention to consummate any of the preceding actions, a termination of any other agreement between you or your affiliates and us or any of our affiliates, or your Travelin' Tom's Business is cited for improper operation three or more times within any calendar year.
(i) Franchisee's obligations on termination/non-renewal	<del>Section 16</del> Sections 18.3 and 25/Not Applicable	Obligations include ceasing operating the Travelin' Tom's Business; ceasing use of all confidential information, trade secrets and trademarks; delivering property containing the trademarks; cancelling assumed similar name registrations; payment of outstanding amounts and damages; return of Brand Manual; assignment of phone numbers to us; and compliance with all other covenants.
(j) Assignment of contract by franchisor	Section <del>13A</del> 15/Section 7	No restriction on our right to assign.
(k) "Transfer" by Franchisee - definition	Section <del>13B</del> 16.1/Not Applicable	Includes any voluntary, involuntary, direct, or indirect assignment, sale, gift, exchange, grant of a security interest, or change of ownership in you (if you are an entity), the BEV, Franchise Agreement, the Travelin' Tom's Coffee Franchise or any interest in the Travelin' Tom's Coffee Franchise.
(l) Franchisor's approval of transfer by Franchisee	Sections <del>13B &amp; 13C</del> 16.1/Not Applicable	We have the right to approve all transfers, including the transfer of Additional Equipment.
(m) Conditions for franchisor's approval of transfer	Section <del>13C</del> 16.3/Not Applicable	Our requirements for approving the transfer of this Franchise Agreement include, but are not limited to: full compliance with the Franchise Agreement; all amounts paid in

Provision	Section in Franchise Agreement/Additional Franchise Reservation Agreement	Summary
		full; completion of training; transfer fee paid; agreement of transferee to all terms of Franchise Agreement; the execution of other possible documents including a general release; the transferee meets certain suitability requirements and passes our training program; the transferee and its owners or affiliates and family members are not involved in a competitive business; the transferee agrees to remodel the BEV and any Additional Equipment; and we will be reimbursed for the fees of our broker or other placement agent. You must also fully de-identify your BEV if you wish to transfer it to any party besides us or another franchisee.
(n) Franchisor's right of first refusal to acquire Franchisee's business	Section <del>13G</del> <u>16.2</u> /Not Applicable	We have 30 days to match any offer for your Travelin' Tom's Business or your BEV.
(o) Franchisor's right to purchase Franchisee's business	Section <del>16E</del> <u>26</u> /Not Applicable	We may, but are not required to, purchase your Travelin' Tom's Coffee Franchise, inventory, BEV, or equipment at fair market value if your Travelin' Tom's Coffee Franchise is terminated for any reason by giving you written notice of our intent to exercise this option within 30 days after the date of termination or expiration of the Franchise Agreement.
(p) Death or disability of Franchisee	Section <del>13E</del> <u>16.5</u> /Not Applicable	Franchisee must be a legal entity. Upon the Managing Owner's death or disability, the Managing Owner's interest must be assigned to a qualified party within 90 days of death or disability of the Managing Owner or the Franchise Agreement may be terminated.
(q) Non-competition covenants during the term of the Franchise	Section <del>8</del> <u>18.2</u> /Not Applicable	Subject to applicable state law, neither you, your principal owners, nor any immediate family members of you or your principal owners may participate in a competitive business, have no owning interest in, loan money to, or perform services for a competitive business anywhere. You may not interfere with us, our affiliates, or any other Travelin' Tom's Coffee Franchise.
(r) Non-competition covenants after the Franchise is terminated or expires	Section <del>16D</del> <u>18.3</u> /Not Applicable	Owners cannot have an interest in, own, manage, operate, finance, control, or participate in any competitive business

Provision	Section in Franchise Agreement/Additional Franchise Reservation Agreement	Summary
		within a 20-mile radius from any Travelin' Tom's Business, whether owned by us or a franchisee, that is operating or under development, for two years. Owners may not solicit any customer of Travelin' Tom's Coffee or any Travelin' Tom's Coffee Franchise for two years, subject to applicable state law.
(s) Modification of the agreement	<del>Section 18L</del> Sections 9.1 and 29.9	No modifications of the Franchise Agreement during the term unless agreed to in writing, but the Brand Manual is subject to change at any time in our discretion. Modifications of the Franchise Agreement are permitted on renewal.
(t) Integration/merger clause	<del>Section 18N</del> Section 29.9	Only the terms of the Franchise Agreement and other related written agreements are binding (subject to state, FTC, or federal law). Any representations or promises outside of this Franchise Disclosure Document and Franchise Agreement may not be enforceable.
(u) Dispute resolution by arbitration or mediation	<del>Sections 18F &amp; 18G</del> Section 27/Not Applicable	Except for certain claims, all disputes must be mediated and arbitrated in the principal city closest to our principal place of business (currently Florence, Kentucky), subject to applicable state law.
(v) Choice of forum	<del>Section 18I</del> 27.4/Section 9	All disputes must be mediated, arbitrated, and if applicable, litigated in the principal city closest to our principal place of business (currently Florence, Kentucky), subject to applicable state law.
(w) Choice of law	<del>Section 18H</del> 29.1/Section 9	Kentucky law, except for The Kentucky Business Opportunity Investment Act applies, subject to applicable state law.

### **THE AREA DEVELOPER RELATIONSHIP**

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

<u>Provision</u>	<u>Section in Area Development Agreement</u>	<u>Summary</u>
a. <u>Length of the franchise term</u>	<u>2</u>	<u>Until the expiration or termination of the Area Development Agreement.</u>
b. <u>Renewal or extension</u>	<u>Not applicable</u>	<u>Not applicable.</u>
c. <u>Requirements for area developer to renew or extend</u>	<u>Not applicable</u>	<u>Not applicable.</u>
d. <u>Termination by area developer</u>	<u>Not applicable</u>	<u>You may terminate under any grounds permitted by law.</u>
e. <u>Termination by franchisor without cause</u>	<u>Not applicable</u>	<u>Not applicable.</u>
f. <u>Termination by franchisor with cause</u>	<u>Section 8</u>	<u>We can terminate if you or any of your affiliates materially default under the Area Development Agreement, any individual Franchise Agreement or any other agreement with us or our affiliates, or if you fail to comply with the Development Schedule.</u>
g. <u>“Cause” defined – curable defaults</u>	<u>Not applicable</u>	<u>Not applicable.</u>
h. <u>“Cause” defined – non-curable defaults</u>	<u>Section 8</u>	<u>If you default on the Area Development Agreement or any individual Franchise Agreement, or any other agreement with us or our affiliates, or if you fail to comply with the Development Schedule.</u>
i. <u>Area Developer’s obligations on termination/non-renewal</u>	<u>Section 8</u>	<u>Obligations include the payment of all amounts due. You remain bound by all Franchise Agreements.</u>
j. <u>Assignment of contract by franchisor</u>	<u>Section 9.1</u>	<u>No restrictions on our right to assign the Area Development Agreement.</u>
k. <u>“Transfer” by area developer – definition</u>	<u>Not applicable</u>	<u>Not applicable.</u>
l. <u>Franchisor approval of transfer by area developer</u>	<u>Sections 8.2 and 9.2</u>	<u>You may not assign the Area Development Agreement or any rights to the Development Territory unless in the event of death or disability of your Responsible Owner.</u>
m. <u>Conditions for franchisor approval of transfer</u>	<u>Not applicable</u>	<u>Not applicable.</u>
n. <u>Franchisor’s right of first refusal to acquire area developer’s business</u>	<u>Not applicable</u>	<u>Not applicable</u>
o. <u>Franchisor’s option to purchase area developer’s business</u>	<u>Not applicable</u>	<u>Not applicable</u>

<u>Provision</u>	<u>Section in Area Development Agreement</u>	<u>Summary</u>
p. <u>Death or disability of area developer</u>	<u>Section 8.2</u>	<u>Upon death or disability, you may assign the Area Development Agreement within 180 days. If not assigned within 180 days, the Area Development Agreement automatically terminates.</u>
q. <u>Non-competition covenants during the term of the franchise</u>	<u>Not applicable</u>	<u>Not applicable.</u>
r. <u>Non-competition covenants after the franchise is terminated or expires</u>	<u>Not applicable</u>	<u>Not applicable.</u>
s. <u>Modification of agreement</u>	<u>Section 11</u>	<u>No modifications of the Area Development Agreement unless agreed to in writing.</u>
t. <u>Integration/merger clause</u>	<u>Section 11</u>	<u>Only the terms of the Area Development Agreement are binding (subject to state law). Any representations or promises outside of this Disclosure Document and the Area Development Agreement may not be enforceable.</u>
u. <u>Dispute resolution by arbitration or mediation</u>	<u>Section 17</u>	<u>Except for certain claims, all disputes must be mediated and arbitrated in the principal city closest to our principal place of business (currently Florence, Kentucky).</u>
v. <u>Choice of forum</u>	<u>Section 17</u>	<u>All disputes must be mediated, arbitrated, and if applicable, litigated in the principal city closest to our principal place of business (currently Florence, Kentucky), subject to applicable state law.</u>
w. <u>Choice of law</u>	<u>Section 17</u>	<u>Kentucky law, except for The Kentucky Business Opportunity Investment Act applies, subject to applicable state law.</u>

## ITEM 18 PUBLIC FIGURES

We do not use any public figures to promote the Franchise.

## ITEM 19 FINANCIAL PERFORMANCE REPRESENTATIONS

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



the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations 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 Tony Lamb, 5945 Centennial Circle, Florence, Kentucky 41042 and 1-800-566-2423, the Federal Trade Commission, and the appropriate state regulatory agencies.

## ITEM 20 OUTLETS AND FRANCHISEE INFORMATION

Table No. 1

### System-wide Outlet Summary For Years 2020—2021 - 2023

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	<del>2021</del> 2020	0	<del>0</del> 15	<del>0</del> +15
	<del>2022</del> 2021	<del>0</del> 15	<del>15</del> 50	<del>+15</del> 35
	20222023	1550	50139	+3589
Company-Owned	<del>2021</del> 2020	<del>0</del> 2	<del>26</del>	<del>+24</del>
	<del>2022</del> 2021	<del>26</del>	<del>63</del>	<del>+4</del> 3
	20222023	63	3	-30
Total Outlets	<del>2021</del> 2020	<del>0</del> 2	<del>17</del> 21	<del>+17</del> 19
	<del>2022</del> 2021	<del>22</del> 1	<del>21</del> 53	<del>+19</del> 32
	20222023	2153	53142	+3289

Table No. 2

### Transfers of Outlets from Franchisees to New Owners (other than the Franchisor) For Years 2020—2021 - 2023

State	Year	Number of Transfers
<u>Georgia</u>	<u>2021</u>	<u>0</u>
	<u>2022</u>	<u>0</u>
	<u>2023</u>	<u>1</u>
Totals	<del>2021</del> 2020	0
	<del>2021</del>	0
	2022	0
	<u>2023</u>	<u>1</u>

Table No. 3

Status of Franchised Outlets  
For Years 2020—2021 - 2023

State	Year	Outlets at Start of the Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
Alabama	<u>2021</u>	0	0	0	0	0	0	0
	<u>2022</u>	0	1	0	0	0	0	1
	<u>2023</u>	1	1	0	0	0	0	2
California	<u>2021</u>	0	0	0	0	0	0	0
	<u>2022</u>	0	0	0	0	0	0	0
	<u>2023</u>	0	1	0	0	0	0	1
Colorado	2021	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
Georgia	<u>2020</u>	0	1	0	0	0	0	1
Connecticut	<u>2021</u>	0	0	0	0	0	0	0
	<u>2022</u>	0	0	0	0	0	0	0
	<u>2023</u>	0	1	0	0	0	0	1
Florida	<u>2021</u>	0	0	0	0	0	0	0
	<u>2022</u>	0	0	0	0	0	0	0
	<u>2023</u>	0	2	0	0	0	0	2
Georgia	2021	0	2	0	0	0	0	2
	2022	2	2	0	0	0	0	4
Indiana	<u>2020</u>	0	5	0	0	0	0	5
Idaho	<u>2021</u>	0	0	0	0	0	0	0
	<u>2022</u>	0	0	0	0	0	0	0
	<u>2023</u>	0	1	0	0	0	0	1
Illinois	<u>2021</u>	0	0	0	0	0	0	0
	<u>2022</u>	0	0	0	0	0	0	0
	<u>2023</u>	0	2	0	0	0	0	2
Indiana	2021	0	3	0	0	0	0	3
	2022	3	2	0	0	0	0	5

State	Year	Outlets at Start of the Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
<del>Iowa</del>	<del>2020</del> <u>23</u>	<del>05</del>	<del>07</del>	0	0	0	0	<del>012</del>
<u>Iowa</u>	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
	<u>2023</u>	<u>1</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>4</u>
<u>Kansas</u>	<u>2021</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2022</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2023</u>	<u>0</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>3</u>
<u>Kentucky</u>	<del>2020</del> <u>21</u>	0	0	0	0	0	0	0
	<u>2022</u>	<u>0</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>3</u>
	<u>2023</u>	<u>3</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5</u>
<u>Louisiana</u>	2021	0	0	0	0	0	0	0
	2022	0	<del>30</del>	0	0	0	0	<del>30</del>
<del>Maryland</del>	<del>2020</del> <u>23</u>	0	<del>03</del>	0	0	0	0	<del>03</del>
<u>Maryland</u>	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
<del>Michigan</del>	<del>2020</del> <u>23</u>	<del>01</del>	<del>04</del>	0	0	0	0	<del>05</del>
<u>Michigan</u>	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	<u>2023</u>	<u>1</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>3</u>
<u>Minnesota</u>	<u>2021</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2022</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2023</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
<u>Mississippi</u>	<u>2021</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2022</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2023</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
<u>Missouri</u>	<del>2020</del> <u>21</u>	0	<del>01</del>	0	0	0	0	<del>01</del>
	<del>2021</del>	<del>0</del>	<del>4</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>4</del>
	2022	1	3	0	0	0	0	4
	<u>2023</u>	<u>4</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>7</u>
<u>Nebraska</u>	<del>2020</del> <u>21</u>	0	0	0	0	0	0	0
	<u>2022</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>

State	Year	Outlets at Start of the Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
	<u>2023</u>	<u>1</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>3</u>
<u>Nevada</u>	2021	0	0	0	0	0	0	0
	2022	0	<u>10</u>	0	0	0	0	<u>10</u>
	<u>2023</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
New Mexico	<del>2020</del> <u>21</u>	0	0	0	0	0	0	0
	<del>2021</del>	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
	<u>2023</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
New York	<del>2020</del> <u>21</u>	0	0	0	0	0	0	0
	<del>2021</del>	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
	<u>2023</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
North Carolina	<del>2020</del> <u>21</u>	0	0	0	0	0	0	0
	<u>2022</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
	<u>2023</u>	<u>1</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>4</u>
<u>Ohio</u>	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
<del>Ohio</del>	<del>2020</del> <u>23</u>	<del>0</del> <u>1</u>	<del>0</del> <u>6</u>	0	0	0	0	<del>0</del> <u>7</u>
<u>Oklahoma</u>	2021	0	0	0	0	0	0	0
	2022	0	<u>10</u>	0	0	0	0	<u>10</u>
	<u>2023</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
<u>Oregon</u>	<u>2021</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2022</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2023</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
Pennsylvania	<del>2020</del> <u>21</u>	0	0	0	0	0	0	0
	<del>2021</del>	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
	<u>2023</u>	<u>2</u>	<u>4</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>6</u>
South Carolina	<del>2020</del> <u>21</u>	0	0	0	0	0	0	0
	<del>2021</del>	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1

State	Year	Outlets at Start of the Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
	<u>2023</u>	<u>1</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>4</u>
Tennessee	<del>2020</del> <u>2021</u>	0	0	0	0	0	0	0
	<del>2021</del>	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
<del>Texas</del>	<del>2020</del> <u>2023</u>	<del>0</del> <u>2</u>	<del>0</del> <u>4</u>	0	0	0	<del>0</del> <u>1</u>	<del>0</del> <u>5</u>
<u>Texas</u>	2021	0	5	0	0	0	0	5
	2022	5	8	0	0	0	0	13
	<u>2023</u>	<u>13</u>	<u>15</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>28</u>
<u>Utah</u>	<u>2021</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2022</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2023</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
<u>Virginia</u>	<u>2021</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2022</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2023</u>	<u>0</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
<u>West Virginia</u>	<u>2021</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2022</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2023</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
Wisconsin	<del>2020</del> <u>2021</u>	0	0	0	0	0	0	0
	<del>2021</del>	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
<del>Totals</del>	<del>2020</del> <u>2023</u>	<del>0</del> <u>2</u>	<del>0</del> <u>2</u>	0	0	0	0	<del>0</del> <u>4</u>
<u>Totals</u>	2021	0	15	0	0	0	0	15
	2022	15	35	0	0	0	0	50
	<u>2023</u>	<u>50</u>	<u>90</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>139</u>

Table 4

Status of Company-Owned Outlets  
For Years 2020—2021 - 20232022

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of Year
Kentucky	<del>2020</del> <u>21</u>	<u>02</u>	<u>24</u>	0	0	0	<u>26</u>
	<del>2022</del> <u>21</u>	<u>26</u>	<u>40</u>	0	0	<u>03</u>	<u>63</u>
	<del>2022</del> <u>23</u>	<u>63</u>	0	0	0	<u>30</u>	3
Total Outlets	<del>2020</del> <u>21</u>	<u>02</u>	<u>24</u>	0	0	0	<u>26</u>
	<del>2022</del> <u>21</u>	<u>26</u>	<u>40</u>	0	0	<u>03</u>	<u>63</u>
	<del>2022</del> <u>23</u>	<u>63</u>	0	0	0	<u>30</u>	3

Table No. 5

Projected Openings as of  
December 31, 20232022

State	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company-Owned Outlets in the Next Fiscal Year
Alabama	0	<u>43</u>	0
Arizona	0	<u>32</u>	0
Colorado	0	<u>32</u>	0
<del>Connecticut</del>	0	<u>4</u>	0
Florida	0	<u>54</u>	0
Georgia	0	<u>75</u>	0
Illinois	0	2	0
Indiana	0	<u>52</u>	0
Iowa	0	<u>21</u>	0
Kansas	0	3	0
Kentucky	0	5	0
<del>Maine</del>	0	<u>4</u>	0
Maryland	0	<u>32</u>	0
Michigan	0	2	0

State	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company-Owned Outlets in the Next Fiscal Year
Minnesota	0	1	0
<del>Missouri</del>	0	3	0
Mississippi	0	1	0
<del>Nebraska</del> Missouri	0	14	0
Nevada	0	32	0
New Hampshire	0	1	0
New Jersey	0	1	0
<del>New York</del>	0	4	0
North Carolina	0	3	0
Ohio	0	75	0
Oklahoma	0	3	0
Oregon	0	3	0
Pennsylvania	0	1	0
South Carolina	0	32	0
Tennessee	0	5	0
Texas	0	106	0
<del>Utah</del>	0	4	0
Virginia	0	3	0
West Virginia	0	1	0
<del>Wisconsin</del>	0	2	0
Totals	0	10075	0

The names, addresses, and telephone numbers of our current franchisees are attached to this Franchise Disclosure Document as Exhibit FG. The name and last known address and telephone number of every current franchisee and every franchisee who has had a Travelin' Tom's Coffee Franchise terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under our franchise agreement during the one year period ending December 31, 2023~~2022~~, or who has not communicated with us within ten weeks of the Issuance Date of this Franchise Disclosure Document, is listed in Exhibit FG. In some instances, current and former franchisees may sign provisions restricting their ability to speak openly about their experiences with the Travelin' Tom's Coffee System. You may wish to speak with current and former franchisees, but know that not all such franchisees can communicate with you. During the last three fiscal years, certain franchisees have signed confidentiality provisions that would restrict their ability to speak openly about their experience with the Travelin' Tom's Coffee System. If you buy a Travelin' Tom's Coffee Franchise, your contact information may be disclosed to other buyers when you leave the Franchise System.

As of the Issuance Date of this Franchise Disclosure Document, there are no franchise organizations sponsored or endorsed by us and no independent franchisee organizations that have asked to be included in this Franchise Disclosure Document. We do not have any trademark specific franchisee organizations.



## ITEM 21 FINANCIAL STATEMENTS

Exhibit B contains the financial statements required to be included with this Franchise Disclosure Document: audited financial statements as of December 31, 2023, December 31, 2022 and December 31, 2021. ~~The franchisor has not been in business for three years or more, and therefore cannot include the same financial statements as a franchisor that has been in business for three or more years.~~ Our fiscal year end is December 31<sup>st</sup>.

## ITEM 22 CONTRACTS

Exhibit C	Franchise Agreement
Exhibit D	<u>Area Development Agreement</u>
Exhibit <del>GE</del>	Franchise Disclosure Questionnaire
Exhibit H	State Addenda and Agreement Riders
<u>Exhibit I</u>	Contracts for use with the Travelin' Tom's Coffee Franchise

## ITEM 23 RECEIPTS

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

## EXHIBIT A

### STATE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS

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



**CALIFORNIA****State Administrator and Agent for Service of Process:**

Commissioner  
Department of Financial  
Protection and Innovation  
320 W. 4<sup>th</sup> Street, #750  
Los Angeles, CA 90013  
(213) 576-7500  
(866) 275-2677

**HAWAII**

Commissioner of Securities of  
the State of Hawaii  
335 Merchant Street, Room 203  
Honolulu, HI 96813  
(808) 586-2722

**Agent for Service of Process:**

Commissioner of Securities of the  
State of Hawaii  
Department of Commerce and  
Consumer Affairs  
Business Registration Division  
335 Merchant Street, Room 203  
Honolulu, HI 96813  
(808) 586-2722

**ILLINOIS**

Illinois Attorney General  
Chief, Franchise Division  
500 S. Second Street  
Springfield, IL 62706  
(217) 782-4465

**INDIANA**

Secretary of State  
Securities Division  
Room E-018  
302 W. Washington Street  
Indianapolis, IN 46204  
(317) 232-6681

**MARYLAND**

Office of the Attorney General  
Securities Division  
200 St. Paul Place  
Baltimore, MD 21202  
(410) 576-6360

**MARYLAND CONTINUED****Agent for Service of Process:**

Maryland Securities Commissioner  
200 St. Paul Place  
Baltimore, MD 21202-2020

**MICHIGAN**

Michigan Department of Attorney General  
Consumer Protection Division  
525 W. Ottawa Street  
Lansing, MI 48913  
(517) 373-7117

**MINNESOTA**

Department of Commerce  
Commissioner of Commerce  
85 Seventh Place East, Suite 280  
St. Paul, MN 55101-3165  
(651) 539-1600

**NEW YORK****Administrator:**

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

**Agent for Service of Process:**

Secretary of State  
99 Washington Avenue  
Albany, NY 12231

**NORTH DAKOTA****Administrator:**

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

**Agent for Service of Process:**

Securities Commissioner  
600 East Boulevard Avenue  
State Capitol, Fourteenth Floor, Dept. 414  
Bismarck, ND 58505-0510

**RHODE ISLAND**

Department of Business Regulation  
1511 Pontiac Avenue, Bldg. 68-2  
Cranston, RI 02920  
(401) 462-9527

**SOUTH DAKOTA**

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

**VIRGINIA**

State Corporation Commission  
Division of Securities and  
Retail Franchising  
1300 E. Main Street, 9<sup>th</sup> Floor  
Richmond, VA 23219

**Agent for Service of Process:**

Clerk of the State Corporation Commission  
1300 E. Main Street, 1<sup>st</sup> Floor  
Richmond, VA 23219

**WASHINGTON****State Administrator:**

Washington Department of Financial  
Institutions  
Securities Division  
P.O. Box 90334 1200  
Olympia, WA 98507 98504-1200  
(360) 902-8760

**Agent for Service for Process:**

Director of Department of Financial  
Institutions  
Securities Division  
150 Israel Road SW  
Tumwater, WA 98501

**WISCONSIN**

Department of Financial Institutions  
Division of Securities  
201 W. Washington Avenue  
Madison, WI 53703  
(608) 266-3364

Rev. 042723090723

**EXHIBIT B**

**FINANCIAL STATEMENTS**

# **Mobile Coffee Company, LLC dba Travelin' Tom's Coffee**

**Financial Statements  
Years Ended December 31, 2022 and 2021  
With Independent Auditors' Report**

---

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**  
**Financial Statements**  
**Years Ended December 31, 2022 and 2021**

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**BARNES DENNIG**  
Accounting • Tax • Business Insight

**KENTUCKY**  
CRESTVIEW HILLS OFFICE  
2617 Legends Way  
Crestview Hills, KY 41017  
Main 859.344.6400  
Fax 859.578.7522

## Independent Auditors' Report

To the Member of  
Mobile Coffee Company, LLC (A Wholly-Owned Subsidiary of Mobile Coffee Company Intermediate Holdings, LLC) dba Travelin' Tom's Coffee  
Florence, Kentucky

### Opinion

We have audited the accompanying financial statements of Mobile Coffee Company, LLC (a limited liability company) dba Travelin' Tom's Coffee, which comprise the balance sheets as of December 31, 2022 and 2021, and the related statements of income, member's equity (deficit), and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Mobile Coffee Company, LLC dba Travelin' Tom's Coffee as of December 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### Basis for Opinion

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

### Responsibilities of Management for the Financial Statements

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

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

### Auditors' Responsibilities for the Audit of the Financial Statements

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

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Independent Auditors' Report  
(Continued)

**Auditors' Responsibilities for the Audit of the Financial Statements (Continued)**

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

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Mobile Coffee Company, LLC dba Travelin' Tom's Coffee'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 Mobile Coffee Company, LLC dba Travelin' Tom's Coffee'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.

*Barnes, Dennig & Co., Ltd.*

March 29, 2023  
Crestview Hills, Kentucky

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Balance Sheets  
December 31, 2022 and 2021**

	<u>2022</u>	<u>2021</u>
<b>Assets</b>		
<b>Current:</b>		
Cash	\$ 4,753,223	\$ 191,419
Inventory	612,246	973,851
Accounts receivable	1,929	-
Accounts receivable - related party	400	5,000
Prepaid expenses	<u>7,973</u>	<u>86,463</u>
Total current assets	<u>5,375,771</u>	<u>1,256,733</u>
<b>Fixed assets:</b>		
Property and equipment	37,081	-
Less: Accumulated depreciation	<u>(1,236)</u>	<u>-</u>
Total fixed assets	<u>35,845</u>	<u>-</u>
<b>Deferred tax asset</b>	<u>254,036</u>	<u>114,551</u>
<b>Total assets</b>	<u><u>\$ 5,665,652</u></u>	<u><u>\$ 1,371,284</u></u>

(Continued)

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Balance Sheets (Continued)  
December 31, 2022 and 2021**

	<u>2022</u>	<u>2021</u>
<b>Liabilities</b>		
<b>Current:</b>		
Accounts payable	\$ 74,694	\$ 178,612
Accounts payable - related parties	4,307,770	1,291,715
Accrued expenses	2,004	-
Accrued federal income tax	297,383	-
Accrued state and local income tax	55,468	791
Deferred franchise fee revenue	<u>70,500</u>	<u>22,500</u>
Total current liabilities	<u>4,807,819</u>	<u>1,493,618</u>
<b>Long-term:</b>		
Deferred franchise fee revenue - net of current portion	<u>541,500</u>	<u>180,000</u>
Total long-term liabilities	<u>541,500</u>	<u>180,000</u>
Total liabilities	5,349,319	1,673,618
<b>Member's Equity (Deficit)</b>	<u>316,333</u>	<u>(302,334)</u>
Total liabilities and member's equity (deficit)	<u><u>\$ 5,665,652</u></u>	<u><u>\$ 1,371,284</u></u>

The accompanying notes are an integral part of these financial statements

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Statements of Income  
Years Ended December 31, 2022 and 2021**

	<u>2022</u>	<u>2021</u>
<b>Revenues</b>	\$ 6,035,314	\$ 2,436,386
<b>Cost of goods sold</b>	<u>4,594,163</u>	<u>1,959,078</u>
Gross profit	1,441,151	477,308
<b>Operating expenses:</b>		
Selling, general and administrative expenses	<u>604,306</u>	<u>488,358</u>
Operating income (loss)	<u>836,845</u>	<u>(11,050)</u>
<b>Income tax (expense) benefit:</b>		
Current	(357,663)	(791)
Deferred	<u>139,485</u>	<u>114,551</u>
Total income tax (expense) benefit	<u>(218,178)</u>	<u>113,760</u>
Net income	<u><u>\$ 618,667</u></u>	<u><u>\$ 102,710</u></u>

The accompanying notes are an integral part of these financial statements

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Statements of Member's Equity (Deficit)  
Years Ended December 31, 2022 and 2021**

<b>Balance (deficit) at December 31, 2020</b>	<b>\$ (405,044)</b>
Net income	<u>102,710</u>
<b>Balance (deficit) at December 31, 2021</b>	<b>(302,334)</b>
Net income	<u>618,667</u>
<b>Balance at December 31, 2022</b>	<b><u>\$ 316,333</u></b>

The accompanying notes are an integral part of these financial statements



**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Statements of Cash Flows  
Years Ended December 31, 2022 and 2021**

	<u>2022</u>	<u>2021</u>
<b>Cash flows from operating activities:</b>		
Net income	\$ 618,667	\$ 102,710
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Depreciation	1,236	-
Changes in:		
Accounts receivable	(1,929)	-
Inventory	361,605	(973,851)
Prepaid expenses	78,490	(86,463)
Deferred tax asset	(139,485)	(114,551)
Accounts payable	(103,918)	178,612
Accrued expenses	2,004	-
Accrued federal income tax	297,383	-
Accrued state and local income tax	54,677	791
Deferred revenue	409,500	202,500
Net cash provided by (used in) operating activities	<u>1,578,230</u>	<u>(690,252)</u>
<b>Cash flows from investing activities:</b>		
Advances on accounts receivable - related party	-	(5,000)
Payments on accounts receivable - related party	4,600	-
Purchases of property and equipment	<u>(37,081)</u>	<u>-</u>
Net cash used in investing activities	<u>(32,481)</u>	<u>(5,000)</u>
<b>Cash flows from financing activities:</b>		
Payments on accounts payable - related parties	(1,632,385)	(4,015,662)
Advances from accounts payable - related parties	<u>4,648,440</u>	<u>4,902,333</u>
Net cash provided by financing activities	<u>3,016,055</u>	<u>886,671</u>
<b>Net change in cash</b>	4,561,804	191,419
<b>Cash beginning of year</b>	<u>191,419</u>	<u>-</u>
<b>Cash end of year</b>	<u><u>\$ 4,753,223</u></u>	<u><u>\$ 191,419</u></u>
<b>Supplemental disclosure of cash flow information</b>		
Cash paid during the year for taxes	<u><u>\$ 1,182</u></u>	<u><u>\$ -</u></u>

The accompanying notes are an integral part of these financial statements



**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***Nature of Operations***

Mobile Coffee Company, LLC (the "Company") is a limited liability company providing franchise services and operating trucks in the coffee industry throughout the United States of America. They contract directly with individuals for the purchase of a coffee truck and a territory in which to operate. The Company provides marketing services and advertising for the franchisees.

***Recently Issued Accounting Standards***

In June 2016, the FASB issued ASU 2016-13, Financial Instruments – Credit Losses: Measurement of Credit Losses on Financial Instruments. The standard modifies the impairment model for most financial assets and certain other instruments to utilize an expected loss methodology in place of the currently used incurred loss methodology. The standard will be effective for the Company for the fiscal year ending December 31, 2023. The Company is currently in the process of evaluating the impact of adoption of this ASU on its financial statements.

***Use of Estimates***

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The process of preparing financial statements in conformity with generally accepted accounting principles ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reported period. Actual results could differ from those estimates.

***Accounts Receivable***

Accounts receivable are uncollateralized customer obligations due under normal trade terms generally requiring payment within 30 days from the invoice date. Currently, the Company may charge interest on delinquent accounts receivable. Accounts receivable are stated at the amount billed to the customer.

Payments of accounts receivable are allocated to the specific invoices identified on the customer's remittance advice or, if unspecified, are applied to the earliest unpaid invoices. The carrying amount of accounts receivable is reduced by a valuation allowance that reflects management's best estimate of the amounts that may not be collected. Management individually reviews all accounts receivable balances that exceed 90 days from invoice date and based on an assessment of current creditworthiness, estimates the portion, if any, of the balances that will not be collected. Management also uses past experiences and future economic conditions in estimating the total uncollectible amount. Based on these criteria, the allowance for doubtful accounts at December 31, 2022 and 2021 is \$-0-.

***Advertising Costs***

Advertising costs are charged to operations when incurred. Advertising costs charged to operations was \$12,561 and \$27,410 for the years ended December 31, 2022 and 2021, respectively.

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

***Income Taxes***

The Company is a wholly owned limited liability company and has elected to be treated as a disregarded entity for tax purposes. The election provides that for tax purposes, all activity, assets, and liabilities are that of its sole member who then reports this activity for federal and state purposes.

Income taxes are provided for the proportionate share of the member's tax liability for the tax effects of transactions reported in the financial statements and consist of taxes currently due plus deferred taxes. Deferred taxes are recognized for the difference between the basis of assets and liabilities for financial statement versus income tax purposes. The differences relate primarily to amortization, deferred revenue, and net operating loss carryforwards. The deferred tax assets represent the future tax consequences of those differences, which will be deductible when the assets are recovered. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense is the tax payable for the period plus or minus the change during the period in deferred tax assets.

The Company adheres to the GAAP provisions of Accounting for Uncertainty in Income Taxes. ~~These provisions clarify the accounting for uncertainty in income taxes recognized in an entity's~~ financial statements and prescribes a recognition threshold and measurement principles for the financial statement recognition and measurement of tax positions taken or expected to be taken on a tax return that are not certain to be realized.

***Concentration of Credit Risk***

The Company maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk.

***Revenue Recognition***

The new truck sales are considered separate performance obligations, based on significant judgments, and recognized upon delivery. Payment is due, and revenue is recognized, for these items upon delivery.

Franchise fee revenue is paid when the franchise agreement is signed and recognized over the ten year franchise period on a straight-line basis once the truck is delivered and every anniversary date subsequent to the delivery. The current portion of the deferred franchise revenue is based on anniversary date.

Annual marketing fees (contractually fixed fees) are paid over one to four months and are recognized on a straight-line basis over the fiscal year.

Inventory sales are recognized at a point in time when performance obligations are completed and paid under customary terms.

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

***Revenue Recognition (Continued)***

The majority of the revenue recognized by the Company is at a point in time with the remainder recognized over time. Approximately \$5,893,000 and \$2,410,600 of total revenue is recognized at a point in time with approximately \$551,800 and \$25,800 recognized over time in 2022 and 2021, respectively.

***Contract Liability***

Deferred franchise fee revenue represents a contract liability.

***Subsequent Event Evaluation***

In preparing the financial statements, the Company has evaluated events subsequent to the balance sheet date through March 29, 2023, which is the date the financial statements were available to be issued.

**NOTE 2 INVENTORY**

Inventory is value at the lower of cost (determined on a FIFO basis) or market. It consists primarily of trucks that are in various stages of construction and supplies. Inventory consisted of the following at December 31:

	<u>2022</u>	<u>2021</u>
Flavoring	\$ 269,758	\$ 115,819
Merchandise and parts	342,488	858,032
	<u>\$ 612,246</u>	<u>\$ 973,851</u>

**NOTE 3 INCOME TAXES PAYABLE**

The income tax (expense) benefit for the years ended December 31, 2022 and 2021 consists of the following:

	<u>2022</u>	<u>2021</u>
State and local taxes	\$ (357,663)	\$ (791)
Net effect of temporary timing differences	139,485	114,551
Total income tax (expense) benefit	<u>\$ (218,178)</u>	<u>\$ 113,760</u>



**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 3 INCOME TAXES PAYABLE (CONTINUED)**

The tax effect of temporary timing differences that give rise to significant portions of the deferred tax assets and liabilities as of December 31, 2022 and 2021 is as follows:

	2022	2021
Deferred tax assets:		
Depreciation and amortization	\$ 19,602	\$ 30,359
Inventory section 263A	16,283	-
Deferred franchise fee revenue	146,651	48,524
Net operating loss carryforward	2,038	16,399
Research and experimentation credit	69,462	19,269
Total deferred tax assets	<u>\$ 254,036</u>	<u>\$ 114,551</u>

The Company has reflected deferred income taxes at 25% for the years ended December 31, 2022 and 2021, which represents a blended statutory federal and state income tax rate.

The following reconciles the statutory income tax rate to the rate used for the income tax expense:

2022	Gross	Tax Effect	Rate
Net income before taxes - 21%	\$ 836,845	\$ 175,737	21.00%
Permanent true up - 21%	(19,293)	(4,052)	-0.48%
State tax - 79%	33,189	26,219	3.13%
Research credit true up - 100%	19,268	19,268	2.30%
Other	-	1,005	0.12%
	<u>\$ 870,009</u>	<u>\$ 218,178</u>	<u>23.65%</u>
2021	Gross	Tax Effect	Rate
Net loss before taxes - 21%	\$ (11,050)	\$ (2,321)	21.00%
Prior year loss true up - 21%	(405,044)	(85,059)	769.77%
Permanent differences - 21%	19,268	4,046	-36.62%
State tax - 79%	(13,593)	(10,738)	97.18%
Current year research credit - 100%	(19,268)	(19,268)	174.37%
Other	-	(420)	3.80%
	<u>\$ (429,687)</u>	<u>\$ (113,760)</u>	<u>851.33%</u>

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 4 RELATED PARTY TRANSACTIONS**

The Company has receivables in the amount of \$400 and \$5,000 due from a related party at December 31, 2022 and 2021, respectively.

The Company has payables in the amount of \$4,307,770 and \$1,291,715 due to related parties at December 31, 2022 and 2021, respectively. The related party payable is a current liability used to fund start-up expenses and ongoing operational costs that the Company repays as cash flow permits throughout the year. Management expects to be able to meet the obligation through growth in operations, and will be able to extend the due date of the related party payable sufficient to enable the Company to meet its obligations.

**NOTE 5 RISKS AND UNCERTAINTIES**

The Company is regulated by state laws and regulations in each state in which it operates, including those governing franchise sales and licensing, which are subject to change. These laws and regulations, among other things, establish franchise and licensing requirements which regulate the Company's ability to issue franchise rights. Any adverse change in or interpretation of existing laws or regulations or the failure to comply with any such laws and regulations could result in fines, class action litigation, or interruption or cessation of certain business activities of the Company. Any of these events could have a material effect on the Company's business. In addition, there can be no assurance that amendments to such laws and regulations or new or more restrictive laws or regulations, or interpretations thereof will not be adopted in the future which may make compliance more difficult or expensive, further limit or restrict fees and other charges, curtail the current operations of the Company, restrict the Company's ability to expand its operations or otherwise materially adversely affect the business or prospects of the Company.

**NOTE 6 FRANCHISES IN OPERATIONS**

The following summarizes the franchise ownership changes for the years ended December 31, 2022 and 2021:

	2022	2021
Franchises in operation at beginning of year	21	-
Franchises sold	31	15
Franchises purchased by franchisor	-	6
Franchises in operation at end of year	52	21

# **Mobile Coffee Company, LLC dba Travelin' Tom's Coffee**

**Financial Statements  
Years Ended December 31, 2023 and 2022  
With Independent Auditors' Report**

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Financial Statements  
Years Ended December 31, 2023 and 2022**

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## **Independent Auditors' Report**

To the Member of  
Mobile Coffee Company, LLC (A Wholly-Owned Subsidiary of Mobile Coffee Company Intermediate Holdings, LLC) dba Travelin' Tom's Coffee  
Florence, Kentucky

### **Opinion**

We have audited the accompanying financial statements of Mobile Coffee Company, LLC (a limited liability company) dba Travelin' Tom's Coffee, which comprise the balance sheets as of December 31, 2023 and 2022, and the related statements of income, member's equity, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Mobile Coffee Company, LLC dba Travelin' Tom's Coffee as of December 31, 2023 and 2022, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### **Basis for Opinion**

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

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

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

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

### **Auditors' Responsibilities for the Audit of the Financial Statements**

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

**BARNES DENNIG**

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**Independent Auditors' Report  
(Continued)**

**Auditors' Responsibilities for the Audit of the Financial Statements (Continued)**

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

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Mobile Coffee Company, LLC dba Travelin' Tom's Coffee'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 Mobile Coffee Company, LLC dba Travelin' Tom's Coffee'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.

*Barnes, Dennig & Co., Ltd.*

April 11, 2024  
Crestview Hills, Kentucky

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Balance Sheets  
December 31, 2023 and 2022**

	<u>2023</u>	<u>2022</u>
<b>Assets</b>		
<b>Current:</b>		
Cash	\$ 3,669,273	\$ 4,753,223
Inventory	1,741,359	612,246
Accounts receivable	701	1,929
Accounts receivable - other	16,740	-
Prepaid expenses	<u>4,502</u>	<u>7,973</u>
Total current assets	<u>5,432,575</u>	<u>5,375,371</u>
<b>Fixed assets:</b>		
Property and equipment	42,989	37,081
Less: Accumulated depreciation	<u>(9,060)</u>	<u>(1,236)</u>
Total fixed assets	<u>33,929</u>	<u>35,845</u>
<b>Other:</b>		
Accounts receivable - related parties	223,248	400
Net deferred tax asset	<u>1,635,561</u>	<u>254,036</u>
Total other assets	<u>1,858,809</u>	<u>254,436</u>
Total assets	<u><u>\$ 7,325,313</u></u>	<u><u>\$ 5,665,652</u></u>

(Continued)

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Balance Sheets (Continued)  
December 31, 2023 and 2022**

	<u>2023</u>	<u>2022</u>
<b>Liabilities</b>		
<b>Current:</b>		
Accounts payable	\$ 90,289	\$ 74,694
Accounts payable - related parties	4,349,556	4,307,770
Accrued expenses	-	2,004
Accrued federal income tax	472,165	297,383
Accrued state and local income tax	191,586	55,468
Deferred franchise fee revenue	204,000	70,500
Customer deposits	10,000	-
Total current liabilities	<u>5,317,596</u>	<u>4,807,819</u>
<b>Long-term:</b>		
Deferred franchise fee revenue - net of current portion	<u>1,540,500</u>	<u>541,500</u>
Total long-term liabilities	<u>1,540,500</u>	<u>541,500</u>
Total liabilities	6,858,096	5,349,319
<b>Member's equity</b>	<u>467,217</u>	<u>316,333</u>
Total liabilities and member's equity	<u><u>\$ 7,325,313</u></u>	<u><u>\$ 5,665,652</u></u>

The accompanying notes are an integral part of these financial statements

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Statements of Income  
Years Ended December 31, 2023 and 2022**

	<u>2023</u>	<u>2022</u>
<b>Revenues</b>	\$ 19,276,571	\$ 6,035,314
<b>Cost of goods sold</b>	<u>14,016,016</u>	<u>4,594,163</u>
Gross profit	5,260,555	1,441,151
<b>Operating expenses:</b>		
Selling, general and administrative expenses	<u>802,898</u>	<u>604,306</u>
Income before other income (expense)	<u>4,457,657</u>	<u>836,845</u>
<b>Other income (expense):</b>		
Management fee expense	(4,336,728)	-
Interest income	<u>92,725</u>	<u>-</u>
Total other income (expense)	<u>(4,244,003)</u>	<u>-</u>
Income before income taxes	<u>213,654</u>	<u>836,845</u>
<b>Income tax (expense) benefit:</b>		
Current	(1,444,295)	(357,663)
Deferred	<u>1,381,525</u>	<u>139,485</u>
Total income tax (expense) benefit	<u>(62,770)</u>	<u>(218,178)</u>
Net income	<u><u>\$ 150,884</u></u>	<u><u>\$ 618,667</u></u>

The accompanying notes are an integral part of these financial statements

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Statements of Member's Equity (Deficit)  
Years Ended December 31, 2023 and 2022**

<b>Balance (deficit) at December 31, 2021</b>	<b>\$ (302,334)</b>
Net income	<u>618,667</u>
<b>Balance at December 31, 2022</b>	<b>316,333</b>
Net income	<u>150,884</u>
<b>Balance at December 31, 2023</b>	<b><u>\$ 467,217</u></b>

The accompanying notes are an integral part of these financial statements

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Statements of Cash Flows  
Years Ended December 31, 2023 and 2022**

	<u>2023</u>	<u>2022</u>
<b>Cash flows from operating activities:</b>		
Net income	\$ 150,884	\$ 618,667
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	7,824	1,236
Changes in:		
Accounts receivable	1,228	(1,929)
Accounts receivable - other	(16,740)	-
Inventory	(1,129,113)	361,605
Prepaid expenses	3,471	78,490
Net deferred tax asset	(1,381,525)	(139,485)
Accounts receivable - related parties	(222,848)	4,600
Accounts payable	15,595	(103,918)
Accounts payable - related parties	41,786	3,016,055
Accrued expenses	(2,004)	2,004
Accrued federal income tax	472,165	297,383
Accrued state and local income tax	(161,265)	54,677
Deferred franchise fee revenue	1,132,500	409,500
Customer deposits	10,000	-
Net cash provided by (used in) operating activities	<u>(1,078,042)</u>	<u>4,598,885</u>
<b>Cash flows from investing activities:</b>		
Purchases of property and equipment	<u>(5,908)</u>	<u>(37,081)</u>
Net cash used in investing activities	<u>(5,908)</u>	<u>(37,081)</u>
<b>Net change in cash</b>	(1,083,950)	4,561,804
<b>Cash beginning of year</b>	<u>4,753,223</u>	<u>191,419</u>
<b>Cash end of year</b>	<u><u>\$ 3,669,273</u></u>	<u><u>\$ 4,753,223</u></u>
<b>Supplemental disclosure of cash flow information</b>		
Cash paid during the year for taxes	<u><u>\$ 600,000</u></u>	<u><u>\$ 1,182</u></u>

The accompanying notes are an integral part of these financial statements

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***Nature of Operations***

Mobile Coffee Company, LLC (the "Company") is a limited liability company providing franchise services and operating trucks in the coffee industry throughout the United States of America. They contract directly with individuals for the purchase of a coffee truck and a territory in which to operate. The Company provides marketing services and advertising for the franchisees.

***Recently Issued Accounting Standards***

In June 2016, the Financial Accounting Standards Board (FASB) issued guidance (FASB ASC 326) which significantly changed how entities will measure credit losses for most financial assets and certain other instruments that aren't measured at fair value through net income. The most significant change in this standard is the shift from the incurred loss model to the expected loss model. Under the standard, disclosures are required to provide users of the consolidated financial statements with useful information in analyzing an entity's exposure to credit risk and the measurement of credit losses. Financial assets held by the Company that are subject to the guidance in FASB ASC 326 were trade accounts receivable. The Company adopted the standard effective January 1, 2023. The impact of the adoption was not considered material to the financial statements and primarily resulted in new/enhanced disclosures only.

***Use of Estimates***

The process of preparing financial statements in conformity with generally accepted accounting principles ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reported period. Actual results could differ from those estimates.

***Accounts Receivable***

Accounts receivable are uncollateralized customer obligations due under normal trade terms generally requiring payment within 30 days from the invoice date. Currently, the Company may charge interest on delinquent accounts receivable. Accounts receivable are stated at the amount billed to the customer

Payments of accounts receivable are allocated to the specific invoices identified on the customer's remittance advice or, if unspecified, are applied to the earliest unpaid invoices. The carrying amount of accounts receivable is reduced by a valuation allowance that reflects management's best estimate of the amounts that may not be collected. Management individually reviews all accounts receivable balances that exceed 90 days from invoice date and based on an assessment of current creditworthiness, estimates the portion, if any, of the balances that will not be collected. Management also uses past experiences and future economic conditions in estimating the total uncollectible amount. Based on these criteria, the allowance for doubtful accounts at December 31, 2023 and 2022 is \$-0-.

***Advertising Costs***

Advertising costs are charged to operations when incurred. Advertising costs charged to operations was \$75,227 and \$12,561 for the years ended December 31, 2023 and 2022, respectively.



**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

***Income Taxes***

The Company is a wholly owned limited liability company and has elected to be treated as a disregarded entity for tax purposes. The election provides that for tax purposes, all activity, assets, and liabilities are that of its sole member who then reports this activity for federal and state purposes.

Income taxes are provided for the proportionate share of the member's tax liability for the tax effects of transactions reported in the financial statements and consist of taxes currently due plus deferred taxes. Deferred taxes are recognized for the difference between the basis of assets and liabilities for financial statement versus income tax purposes. The differences relate primarily to amortization, deferred revenue, accrued management fee, and net operating loss carryforwards. The deferred tax assets represent the future tax consequences of those differences, which will be deductible when the assets are recovered. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense is the tax payable for the period plus or minus the change during the period in deferred tax assets.

The Company adheres to the GAAP provisions of Accounting for Uncertainty in Income Taxes. These provisions clarify the accounting for uncertainty in income taxes recognized in an entity's financial statements and prescribes a recognition threshold and measurement principles for the financial statement recognition and measurement of tax positions taken or expected to be taken on a tax return that are not certain to be realized.

***Concentration of Credit Risk***

The Company maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk.

***Revenue Recognition***

The new truck sales are considered separate performance obligations, based on significant judgments, and recognized upon delivery. Payment is due, and revenue is recognized, for these items upon delivery.

Franchise fee revenue is paid when the franchise agreement is signed and recognized over the ten year franchise period on a straight-line basis once the truck is delivered and every anniversary date subsequent to the delivery. The current portion of the deferred franchise revenue is based on anniversary date.

Annual marketing and royalty fees (contractually fixed fees) are paid over one to four months and are recognized on a straight-line basis over the fiscal year.

Inventory sales, product sales, and flavoring sales are recognized at a point in time when performance obligations are completed and paid under customary terms.

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

***Revenue Recognition (Continued)***

The majority of the revenue recognized by the Company is at a point in time with the remainder recognized over time. Approximately \$18,851,300 and \$5,893,000 of total revenue is recognized at a point in time with approximately \$425,300 and \$142,300 recognized over time in 2023 and 2022, respectively.

***Contract Liability***

Deferred franchise fee revenue represents a contract liability.

***Reclassifications***

Certain reclassifications were made to the 2022 amounts in order to be consistent with the classifications adopted for reporting in 2023. These reclassifications had no effect on net income.

***Subsequent Event Evaluation***

In preparing the financial statements, the Company has evaluated events subsequent to the balance sheet date through April 11, 2024, which is the date the financial statements were available to be issued.

**NOTE 2 INVENTORY**

Inventory is value at the lower of cost (determined on a FIFO basis) or market. It consists primarily of trucks that are in various stages of construction and supplies. Inventory consisted of the following at December 31:

	<u>2023</u>	<u>2022</u>
Flavoring	\$ 516,298	\$ 269,758
Trucks and truck supplies	186,974	-
Merchandise and parts	<u>1,038,087</u>	<u>342,488</u>
	<u>\$ 1,741,359</u>	<u>\$ 612,246</u>

**NOTE 3 INCOME TAXES PAYABLE**

The income tax (expense) benefit for the years ended December 31, 2023 and 2022 consists of the following:

	<u>2023</u>	<u>2022</u>
Federal, state and local taxes	\$ (1,444,295)	\$ (357,663)
Net effect of temporary timing differences	<u>1,381,525</u>	<u>139,485</u>
Total income tax (expense)	<u>\$ (62,770)</u>	<u>\$ (218,178)</u>

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 3 INCOME TAXES PAYABLE (CONTINUED)**

The tax effect of temporary timing differences that give rise to significant portions of the deferred tax assets and liabilities as of December 31, 2023 and 2022 is as follows:

	<u>2023</u>	<u>2022</u>
Deferred tax assets:		
Depreciation and amortization	\$ 18,716	\$ 19,602
Accrued expenses	1,073,449	-
Inventory section 263A	3,793	16,283
Deferred franchise fee revenue	431,807	146,651
Net operating loss carryforward	-	2,038
Research and experimentation credit	107,796	69,462
Total net deferred tax assets	<u>\$ 1,635,561</u>	<u>\$ 254,036</u>

The Company has reflected deferred income taxes at 26% for the years ended December 31, 2023 and 2022, which represents a blended statutory federal and state income tax rate.

The following reconciles the statutory income tax rate to the rate used for the income tax expense:

<u>2023</u>	<u>Gross</u>	<u>Tax Effect</u>	<u>Rate</u>
Net income before taxes - 21%	\$ 213,654	\$ 44,867	21.00%
Permanent true up - 21%	(1,588)	(333)	-0.16%
State tax - 79%	22,124	17,478	8.18%
Other	-	758	0.35%
	<u>\$ 234,190</u>	<u>\$ 62,770</u>	<u>29.02%</u>
<u>2022</u>	<u>Gross</u>	<u>Tax Effect</u>	<u>Rate</u>
Net income before taxes - 21%	\$ 836,845	\$ 175,738	21.00%
Permanent true up - 21%	(19,293)	(4,052)	-0.48%
State tax - 79%	33,189	26,219	3.13%
Research credit true up - 100%	19,268	19,268	2.30%
Other	-	1,005	0.12%
	<u>\$ 870,009</u>	<u>\$ 218,178</u>	<u>23.65%</u>

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 4 RELATED PARTY TRANSACTIONS**

The Company has receivables in the amount of \$223,248 and \$400 due from related parties at December 31, 2023 and 2022, respectively.

The Company has payables in the amount of \$4,349,556 and \$4,307,770 due to related parties at December 31, 2023 and 2022, respectively.

Starting in 2023, the Company is charged a management fee, from a related party, for use of employees, facilities, and other administrative functions. The Company is also charged a 4% royalty fee on all truck sales and a 10% commission fee on truck sales/franchise fees for each new franchisor that is introduced by the related party to the Company. The royalty and commission fees are included in the management fee. Management fee expense was \$4,336,728 and \$-0- for the years ended December 31, 2023 and 2022, respectively.

**NOTE 5 RISKS AND UNCERTAINTIES**

The Company is regulated by state laws and regulations in each state in which it operates, including those governing franchise sales and licensing, which are subject to change. These laws and regulations, among other things, establish franchise and licensing requirements which regulate the Company's ability to issue franchise rights. Any adverse change in or interpretation of existing laws or regulations or the failure to comply with any such laws and regulations could result in fines, class action litigation, or interruption or cessation of certain business activities of the Company. Any of these events could have a material effect on the Company's business. In addition, there can be no assurance that amendments to such laws and regulations or new or more restrictive laws or regulations, or interpretations thereof will not be adopted in the future which may make compliance more difficult or expensive, further limit or restrict fees and other charges, curtail the current operations of the Company, restrict the Company's ability to expand its operations or otherwise materially adversely affect the business or prospects of the Company.

**NOTE 6 FRANCHISES IN OPERATIONS**

The following summarizes the franchise ownership changes for the years ended December 31, 2023 and 2022:

	<u>2023</u>	<u>2022</u>
Franchises in operation at beginning of year	49	17
Franchises sold	90	32
Franchises purchased by franchisor	<u>(1)</u>	<u>-</u>
Franchises in operation at end of year	<u>138</u>	<u>49</u>

# **Mobile Coffee Company, LLC dba Travelin' Tom's Coffee**

**Financial Statements  
Years Ended December 31, 2022 and 2021  
With Independent Auditors' Report**

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Financial Statements  
Years Ended December 31, 2022 and 2021**

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**BARNES DENNIG**  
Accounting • Tax • Business Insight

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## **Independent Auditors' Report**

To the Member of  
Mobile Coffee Company, LLC (A Wholly-Owned Subsidiary of Mobile Coffee Company Intermediate Holdings, LLC) dba Travelin' Tom's Coffee  
Florence, Kentucky

### **Opinion**

We have audited the accompanying financial statements of Mobile Coffee Company, LLC (a limited liability company) dba Travelin' Tom's Coffee, which comprise the balance sheets as of December 31, 2022 and 2021, and the related statements of income, member's equity (deficit), and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Mobile Coffee Company, LLC dba Travelin' Tom's Coffee as of December 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### **Basis for Opinion**

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

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

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

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

### **Auditors' Responsibilities for the Audit of the Financial Statements**

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

**BARNES DENNIG**

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**Independent Auditors' Report  
(Continued)**

**Auditors' Responsibilities for the Audit of the Financial Statements (Continued)**

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

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Mobile Coffee Company, LLC dba Travelin' Tom's Coffee'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 Mobile Coffee Company, LLC dba Travelin' Tom's Coffee'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.

*Barnes, Dennig & Co., Ltd.*

March 29, 2023  
Crestview Hills, Kentucky



**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Balance Sheets  
December 31, 2022 and 2021**

	<u>2022</u>	<u>2021</u>
<b>Assets</b>		
<b>Current:</b>		
Cash	\$ 4,753,223	\$ 191,419
Inventory	612,246	973,851
Accounts receivable	1,929	-
Accounts receivable - related party	400	5,000
Prepaid expenses	<u>7,973</u>	<u>86,463</u>
Total current assets	<u>5,375,771</u>	<u>1,256,733</u>
<b>Fixed assets:</b>		
Property and equipment	37,081	-
Less: Accumulated depreciation	<u>(1,236)</u>	<u>-</u>
Total fixed assets	<u>35,845</u>	<u>-</u>
<b>Deferred tax asset</b>	<u>254,036</u>	<u>114,551</u>
Total assets	<u><u>\$ 5,665,652</u></u>	<u><u>\$ 1,371,284</u></u>

(Continued)

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Balance Sheets (Continued)  
December 31, 2022 and 2021**

	<u>2022</u>	<u>2021</u>
<b>Liabilities</b>		
<b>Current:</b>		
Accounts payable	\$ 74,694	\$ 178,612
Accounts payable - related parties	4,307,770	1,291,715
Accrued expenses	2,004	-
Accrued federal income tax	297,383	-
Accrued state and local income tax	55,468	791
Deferred franchise fee revenue	<u>70,500</u>	<u>22,500</u>
Total current liabilities	<u>4,807,819</u>	<u>1,493,618</u>
<b>Long-term:</b>		
Deferred franchise fee revenue - net of current portion	<u>541,500</u>	<u>180,000</u>
Total long-term liabilities	<u>541,500</u>	<u>180,000</u>
Total liabilities	5,349,319	1,673,618
<b>Member's Equity (Deficit)</b>	<u>316,333</u>	<u>(302,334)</u>
Total liabilities and member's equity (deficit)	<u>\$ 5,665,652</u>	<u>\$ 1,371,284</u>

The accompanying notes are an integral part of these financial statements

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Statements of Income  
Years Ended December 31, 2022 and 2021**

	<u>2022</u>	<u>2021</u>
<b>Revenues</b>	\$ 6,035,314	\$ 2,436,386
<b>Cost of goods sold</b>	<u>4,594,163</u>	<u>1,959,078</u>
Gross profit	1,441,151	477,308
<b>Operating expenses:</b>		
Selling, general and administrative expenses	<u>604,306</u>	<u>488,358</u>
Operating income (loss)	<u>836,845</u>	<u>(11,050)</u>
<b>Income tax (expense) benefit:</b>		
Current	(357,663)	(791)
Deferred	<u>139,485</u>	<u>114,551</u>
Total income tax (expense) benefit	<u>(218,178)</u>	<u>113,760</u>
Net income	<u><u>\$ 618,667</u></u>	<u><u>\$ 102,710</u></u>

The accompanying notes are an integral part of these financial statements

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Statements of Member's Equity (Deficit)  
Years Ended December 31, 2022 and 2021**

<b>Balance (deficit) at December 31, 2020</b>	<b>\$ (405,044)</b>
Net income	<u>102,710</u>
<b>Balance (deficit) at December 31, 2021</b>	<b>(302,334)</b>
Net income	<u>618,667</u>
<b>Balance at December 31, 2022</b>	<b><u>\$ 316,333</u></b>

The accompanying notes are an integral part of these financial statements

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Statements of Cash Flows  
Years Ended December 31, 2022 and 2021**

	<u>2022</u>	<u>2021</u>
<b>Cash flows from operating activities:</b>		
Net income	\$ 618,667	\$ 102,710
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Depreciation	1,236	-
Changes in:		
Accounts receivable	(1,929)	-
Inventory	361,605	(973,851)
Prepaid expenses	78,490	(86,463)
Deferred tax asset	(139,485)	(114,551)
Accounts payable	(103,918)	178,612
Accrued expenses	2,004	-
Accrued federal income tax	297,383	
Accrued state and local income tax	54,677	791
Deferred revenue	409,500	202,500
Net cash provided by (used in) operating activities	<u>1,578,230</u>	<u>(690,252)</u>
<b>Cash flows from investing activities:</b>		
Advances on accounts receivable - related party	-	(5,000)
Payments on accounts receivable - related party	4,600	-
Purchases of property and equipment	<u>(37,081)</u>	<u>-</u>
Net cash used in investing activities	<u>(32,481)</u>	<u>(5,000)</u>
<b>Cash flows from financing activities:</b>		
Payments on accounts payable - related parties	(1,632,385)	(4,015,662)
Advances from accounts payable - related parties	<u>4,648,440</u>	<u>4,902,333</u>
Net cash provided by financing activities	<u>3,016,055</u>	<u>886,671</u>
<b>Net change in cash</b>	4,561,804	191,419
<b>Cash beginning of year</b>	<u>191,419</u>	<u>-</u>
<b>Cash end of year</b>	<u><u>\$ 4,753,223</u></u>	<u><u>\$ 191,419</u></u>
<b>Supplemental disclosure of cash flow information</b>		
Cash paid during the year for taxes	<u><u>\$ 1,182</u></u>	<u><u>\$ -</u></u>

The accompanying notes are an integral part of these financial statements

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***Nature of Operations***

Mobile Coffee Company, LLC (the "Company") is a limited liability company providing franchise services and operating trucks in the coffee industry throughout the United States of America. They contract directly with individuals for the purchase of a coffee truck and a territory in which to operate. The Company provides marketing services and advertising for the franchisees.

***Recently Issued Accounting Standards***

In June 2016, the FASB issued ASU 2016-13, Financial Instruments – Credit Losses: Measurement of Credit Losses on Financial Instruments. The standard modifies the impairment model for most financial assets and certain other instruments to utilize an expected loss methodology in place of the currently used incurred loss methodology. The standard will be effective for the Company for the fiscal year ending December 31, 2023. The Company is currently in the process of evaluating the impact of adoption of this ASU on its financial statements.

***Use of Estimates***

The process of preparing financial statements in conformity with generally accepted accounting principles ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reported period. Actual results could differ from those estimates.

***Accounts Receivable***

Accounts receivable are uncollateralized customer obligations due under normal trade terms generally requiring payment within 30 days from the invoice date. Currently, the Company may charge interest on delinquent accounts receivable. Accounts receivable are stated at the amount billed to the customer

Payments of accounts receivable are allocated to the specific invoices identified on the customer's remittance advice or, if unspecified, are applied to the earliest unpaid invoices. The carrying amount of accounts receivable is reduced by a valuation allowance that reflects management's best estimate of the amounts that may not be collected. Management individually reviews all accounts receivable balances that exceed 90 days from invoice date and based on an assessment of current creditworthiness, estimates the portion, if any, of the balances that will not be collected. Management also uses past experiences and future economic conditions in estimating the total uncollectible amount. Based on these criteria, the allowance for doubtful accounts at December 31, 2022 and 2021 is \$-0-.

***Advertising Costs***

Advertising costs are charged to operations when incurred. Advertising costs charged to operations was \$12,561 and \$27,410 for the years ended December 31, 2022 and 2021, respectively.

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

***Income Taxes***

The Company is a wholly owned limited liability company and has elected to be treated as a disregarded entity for tax purposes. The election provides that for tax purposes, all activity, assets, and liabilities are that of its sole member who then reports this activity for federal and state purposes.

Income taxes are provided for the proportionate share of the member's tax liability for the tax effects of transactions reported in the financial statements and consist of taxes currently due plus deferred taxes. Deferred taxes are recognized for the difference between the basis of assets and liabilities for financial statement versus income tax purposes. The differences relate primarily to amortization, deferred revenue, and net operating loss carryforwards. The deferred tax assets represent the future tax consequences of those differences, which will be deductible when the assets are recovered. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense is the tax payable for the period plus or minus the change during the period in deferred tax assets.

The Company adheres to the GAAP provisions of Accounting for Uncertainty in Income Taxes. These provisions clarify the accounting for uncertainty in income taxes recognized in an entity's financial statements and prescribes a recognition threshold and measurement principles for the financial statement recognition and measurement of tax positions taken or expected to be taken on a tax return that are not certain to be realized.

***Concentration of Credit Risk***

The Company maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk.

***Revenue Recognition***

The new truck sales are considered separate performance obligations, based on significant judgments, and recognized upon delivery. Payment is due, and revenue is recognized, for these items upon delivery.

Franchise fee revenue is paid when the franchise agreement is signed and recognized over the ten year franchise period on a straight-line basis once the truck is delivered and every anniversary date subsequent to the delivery. The current portion of the deferred franchise revenue is based on anniversary date.

Annual marketing fees (contractually fixed fees) are paid over one to four months and are recognized on a straight-line basis over the fiscal year.

Inventory sales are recognized at a point in time when performance obligations are completed and paid under customary terms.



**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

***Revenue Recognition (Continued)***

The majority of the revenue recognized by the Company is at a point in time with the remainder recognized over time. Approximately \$5,893,000 and \$2,410,600 of total revenue is recognized at a point in time with approximately \$551,800 and \$25,800 recognized over time in 2022 and 2021, respectively.

***Contract Liability***

Deferred franchise fee revenue represents a contract liability.

***Subsequent Event Evaluation***

In preparing the financial statements, the Company has evaluated events subsequent to the balance sheet date through March 29, 2023, which is the date the financial statements were available to be issued.

**NOTE 2 INVENTORY**

Inventory is value at the lower of cost (determined on a FIFO basis) or market. It consists primarily of trucks that are in various stages of construction and supplies. Inventory consisted of the following at December 31:

	<u>2022</u>	<u>2021</u>
Flavoring	\$ 269,758	\$ 115,819
Merchandise and parts	<u>342,488</u>	<u>858,032</u>
	<u>\$ 612,246</u>	<u>\$ 973,851</u>

**NOTE 3 INCOME TAXES PAYABLE**

The income tax (expense) benefit for the years ended December 31, 2022 and 2021 consists of the following:

	<u>2022</u>	<u>2021</u>
State and local taxes	\$ (357,663)	\$ (791)
Net effect of temporary timing differences	<u>139,485</u>	<u>114,551</u>
Total income tax (expense) benefit	<u>\$ (218,178)</u>	<u>\$ 113,760</u>

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 3 INCOME TAXES PAYABLE (CONTINUED)**

The tax effect of temporary timing differences that give rise to significant portions of the deferred tax assets and liabilities as of December 31, 2022 and 2021 is as follows:

	<u>2022</u>	<u>2021</u>
Deferred tax assets:		
Depreciation and amortization	\$ 19,602	\$ 30,359
Inventory section 263A	16,283	-
Deferred franchise fee revenue	146,651	48,524
Net operating loss carryforward	2,038	16,399
Research and experimentation credit	69,462	19,269
Total deferred tax assets	<u>\$ 254,036</u>	<u>\$ 114,551</u>

The Company has reflected deferred income taxes at 25% for the years ended December 31, 2022 and 2021, which represents a blended statutory federal and state income tax rate.

The following reconciles the statutory income tax rate to the rate used for the income tax expense:

<u>2022</u>	<u>Gross</u>	<u>Tax Effect</u>	<u>Rate</u>
Net income before taxes - 21%	\$ 836,845	\$ 175,737	21.00%
Permanent true up - 21%	(19,293)	(4,052)	-0.48%
State tax - 79%	33,189	26,219	3.13%
Research credit true up - 100%	19,268	19,268	2.30%
Other	-	1,005	0.12%
	<u>\$ 870,009</u>	<u>\$ 218,178</u>	<u>23.65%</u>
<u>2021</u>	<u>Gross</u>	<u>Tax Effect</u>	<u>Rate</u>
Net loss before taxes - 21%	\$ (11,050)	\$ (2,321)	21.00%
Prior year loss true up - 21%	(405,044)	(85,059)	769.77%
Permanent differences - 21%	19,268	4,046	-36.62%
State tax - 79%	(13,593)	(10,738)	97.18%
Current year research credit - 100%	(19,268)	(19,268)	174.37%
Other	-	(420)	3.80%
	<u>\$ (429,687)</u>	<u>\$ (113,760)</u>	<u>851.33%</u>

**MOBILE COFFEE COMPANY, LLC  
DBA TRAVELIN' TOM'S COFFEE**

**Notes to Financial Statements  
(Continued)**

**NOTE 4 RELATED PARTY TRANSACTIONS**

The Company has receivables in the amount of \$400 and \$5,000 due from a related party at December 31, 2022 and 2021, respectively.

The Company has payables in the amount of \$4,307,770 and \$1,291,715 due to related parties at December 31, 2022 and 2021, respectively. The related party payable is a current liability used to fund start-up expenses and ongoing operational costs that the Company repays as cash flow permits throughout the year. Management expects to be able to meet the obligation through growth in operations, and will be able to extend the due date of the related party payable sufficient to enable the Company to meet its obligations.

**NOTE 5 RISKS AND UNCERTAINTIES**

The Company is regulated by state laws and regulations in each state in which it operates, including those governing franchise sales and licensing, which are subject to change. These laws and regulations, among other things, establish franchise and licensing requirements which regulate the Company's ability to issue franchise rights. Any adverse change in or interpretation of existing laws or regulations or the failure to comply with any such laws and regulations could result in fines, class action litigation, or interruption or cessation of certain business activities of the Company. Any of these events could have a material effect on the Company's business. In addition, there can be no assurance that amendments to such laws and regulations or new or more restrictive laws or regulations, or interpretations thereof will not be adopted in the future which may make compliance more difficult or expensive, further limit or restrict fees and other charges, curtail the current operations of the Company, restrict the Company's ability to expand its operations or otherwise materially adversely affect the business or prospects of the Company.

**NOTE 6 FRANCHISES IN OPERATIONS**

The following summarizes the franchise ownership changes for the years ended December 31, 2022 and 2021:

	2022	2021
Franchises in operation at beginning of year	21	-
Franchises sold	31	15
Franchises purchased by franchisor	-	6
Franchises in operation at end of year	52	21

**EXHIBIT C**

**FRANCHISE AGREEMENT**



EXHIBIT C



~~MOBILE COFFEE COMPANY, LLC DBA~~\_\_\_\_\_

**TRAVELIN' TOM'S COFFEE**

**FRANCHISE AGREEMENT**

**Franchisee Name (Entity):** \_\_\_\_\_

**d/b/a:** \_\_\_\_\_



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[October 5, 2023 FA v1F]

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### Section

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### ATTACHMENTS:

ATTACHMENT A – FRANCHISE DATA SHEET

ATTACHMENT B – STATEMENT OF OWNERSHIP

ATTACHMENT C – FRANCHISE OWNER AGREEMENT

ATTACHMENT A — D – ADDITIONAL EQUIPMENT AMENDMENT ~~FRANCHISE DATA SHEET~~

~~ATTACHMENT B — OWNERSHIP INTERESTS~~

~~ATTACHMENT C — OWNERS AGREEMENT~~



## FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (this “Franchise Agreement”) is made and entered into and effective as of the “Effective Date” set forth in Attachment A to this Franchise Agreement, by and between Mobile Coffee Company, LLC, a Delaware limited liability company, with its principal business address at 5945 Centennial Circle, Florence, Kentucky, 41042 (“Franchisor,” “we,” “us,” or “our”), and the Franchise Owner identified on the signature block of franchisee set forth in Attachment A to this Franchise Agreement (“Franchisee,” “you” or “your”), made effective as of the date”). If more than one person or entity is listed in Attachment A (the “Effective Date”), as the franchisee, each such person or entity shall be jointly and severally liable for all rights, duties, restrictions and obligations under this Franchise Agreement.

### 1. PREAMBLES, ACKNOWLEDGMENTS, AND INTRODUCTION

This Franchise Agreement includes several attachments, each of which are legally binding and are a part of the complete Franchise Agreement. It is your responsibility to read through the entire Franchise Agreement. This Franchise Agreement creates legal obligations you must follow. We recommend that you consult with a legal professional to ensure that you understand these obligations. If you have questions, or if you do not understand a certain provision or section, please review it with your legal and financial advisors before you sign this Franchise Agreement.

This Franchise Agreement has defined terms. A defined term is a shorthand reference within a document that refers to another name or idea in the document. Defined terms are underlined and surrounded by double quotes, typically with capitalized first letters, and may be contained in parentheses throughout the Franchise Agreement.

### 1.2. GRANT OF FRANCHISE.

#### 1.A PREAMBLES.

(1) ~~We have developed~~As a unique system of for the operation of Travelin’ Tom’s franchisee, you will operate a mobile businessesbusiness providing coffees, teas, and related products to the general public (“Travelin’ Tom’s Franchised Business(es)”). ~~Travelin’ Tom’s Businesses have distinctive business formats, methods, procedures, designs, standards, and specifications, all of which we may improve, further develop, or otherwise modify.”). The Franchised Business will operate under our service marks, trademarks, trade names, trade dress, logos, slogans and commercial symbols as we may from time to time.~~

(2) ~~authorize or direct you to use with the operation of the Franchised Business (the “Marks”). We and our affiliates use, promote, and license certain trademarks, service marks, and other commercial symbols a registered patent to be used in connection with the operation of Travelin’ Tom’s Franchised Businesses, and we may create, use, and license other trademarks, service marks, and commercial symbols patents for the same use (collectively, the “Marks”).~~

~~the “Patent”). This Franchise Agreement grants you the right to operate a single one proprietary Travelin’ Tom’s Coffee truck, known as the Beverage Entertainment Vehicle (“BEV”) within the Territory (defined below). We may grant franchises (“Travelin’ Tom’s Coffee Franchise” or “Franchise”) to persons who meet our qualifications, and are willing to undertake the investment and effort, to own and operate a Travelin’ Tom’s Business offering the services and goods we authorize using under our “System~~



you the opportunity to operate with multiple Franchised Businesses under an area development agreement (“Area Development Agreement”) in which case each BEV shall be operated under a separate franchise agreement with us. Standards,” which consist of business formats, methods, procedures, signs, designs, standards, specifications, Patent, and Marks we authorize (the “System”).

- (3) ~~As a Travelin’ Tom’s Coffee Franchise owner, you must comply with this Franchise Agreement and all System Standards to maintain the high and consistent quality critical to attracting customers of Travelin’ Tom’s Businesses and preserving the goodwill of the Marks.~~

#### ~~1.B ACKNOWLEDGMENTS.~~

~~You acknowledge and agree:~~

- (1) ~~That like any other business, the nature of the business that a Travelin’ Tom’s Coffee Franchise conducts may, and probably will, evolve and change over time.~~
- (2) ~~That attracting customers to your Travelin’ Tom’s Coffee Franchise will require you to make continual marketing efforts.~~
- (3) ~~That retaining customers for your Travelin’ Tom’s Coffee Franchise will require you to have a high level of customer service and adhere strictly to and maintain the System and our System Standards.~~
- (4) ~~That in all of their dealings with you, our officers, directors, employees, and agents act only in a representative, and not in an individual capacity and that business dealings between you and them as a result of this Franchise Agreement are deemed only between you and us.~~
- (5) ~~That you have represented to us, to induce our entry into this Franchise Agreement, that all statements you have made and all materials you have given us are accurate and complete and that you have made no misrepresentations or material omissions in obtaining the franchise.~~
- (6) ~~That this Franchise Agreement’s terms and covenants are reasonably necessary for us to maintain our high standards of quality and service and to protect and preserve the goodwill of the Marks.~~

~~That We grant you a non-exclusive license to own and operate a single Franchised Business using the business formats, methods, procedures, signs, designs, standards, specifications, distinguishing elements, and intellectual property (the “System”) that we authorize strictly in compliance with the terms and conditions set forth in this Franchise Agreement, within the Territory or other areas we may specify in Attachment A to this Franchise Agreement. You recognize and acknowledge the distinctive significance to the public of the System and Marks and acknowledge and understand our high and uniform standards of quality, appearance and service to the value of the System. You acknowledge that we may change, improve or otherwise modify the System as we deem appropriate in our discretion, and you agree to promptly accept and comply with any such changes, improvements or modifications. You further acknowledge that our grant to operate a Franchised Business is based on the representations made in your application. You acknowledge and agree this Franchise Agreement does not grant you the right or option to open any additional Franchised Businesses or any right to sublicense or subfranchise any of the rights we grant you~~

in this Franchise Agreement. You may only open an additional Franchised Business under a separate franchise agreement with us, which we may grant in our sole discretion.

~~(7) — As part of accepting our grant for you to own and operate a Travelin’ Tom’s Franchised Business, you hereby represent that: (i) you have received a copy of our current franchise disclosure document; (ii) you are aware of the fact that other present or future franchisees of ours may operate under different forms of agreement and consequently that our obligations and rights with respect to our various franchisees may differ materially in certain circumstances;~~

~~(8) That; and (iii) you are aware of the fact that we may have negotiated terms or offered concessions to other franchisees and we have no obligation to offer you the same or similar negotiated terms or concessions. This Franchise Agreement does not grant you rights to pursue any of our or our affiliates’ business concepts other than the Travelin’ Tom’s Business.~~

~~(9) — That you have been afforded an opportunity to ask any questions you have and to review any materials of interest to you concerning the Travelin’ Tom’s Coffee Franchise except those materials prohibited or restricted under applicable federal and state law and/or regulations.~~

~~(10) — That you alone will exercise day to day control over all operations, activities, and elements of the Travelin’ Tom’s Coffee Franchise and that under no circumstance shall we do so or be deemed to do so. You further acknowledge and agree, and will never contend otherwise, that the various requirements, restrictions, prohibitions, specifications, and procedures of the System which you are required to comply with under this Franchise Agreement, whether set forth in the Brand Manual (defined in Section 5C) or otherwise, do not directly or indirectly constitute, suggest, infer, or imply that we control any aspect or element of the day to day operations of the Travelin’ Tom’s Coffee Franchise, which you alone control, but only constitute standards you must adhere to when exercising your control of the day to day operations of the Travelin’ Tom’s Coffee Franchise.~~

#### ~~1.C — LEGAL ENTITY.~~

~~You are required to be a legal entity (“**Entity**”), and you agree and represent that:~~

### **3. FRANCHISEE AS ENTITY**

#### **3.1 Entity Representations**

For purpose of this Franchise Agreement, “Owner(s)” means any person holding a direct or indirect ownership interest (whether of record, beneficially, or otherwise) or voting rights in you, this Franchise Agreement, or the Franchised Business. If you are a corporation, partnership, limited liability company or other form of business entity (“Entity”), you agree and represent that:

3.1.1 Authority. You have the authority to execute, deliver, and perform your obligations under this Franchise Agreement and all related agreements and are duly organized or formed and, validly existing, and in good standing under the laws of the state of your incorporation or formation;

~~Your organizational documents, operating agreement, or partnership agreement, as applicable.~~3.1.2 Company Documents. At our request, you will furnish copies of all documents and contracts governing the rights and obligations of your Owners (such as, Articles of Incorporation or

Organization and partnership, operating or shareholder agreements or similar documents, the “Company Documents”). You will not alter, change, or amend your Company Documents, without obtaining our prior written approval, which approval we will not unreasonably deny or withhold, and will grant if such changes will not prevent you from performing your obligations under this Franchise Agreement.

3.1.3 Transfer Restrictions. Your Company Documents will recite that this Franchise Agreement restricts the issuance and transfer of any ownership interests in you, and all certificates and other documents representing ownership interests in you will bear a legend referring to this Franchise Agreement’s restrictions.

3.1.4 Naming. You agree not to use the name “Travelin’ Tom’s” or any similar wording in the name of your Entity.

3.1.5 Owner Identification. You certify that Attachment- B to this Franchise Agreement completely and accurately describes all of your ~~direct and indirect owners (i.e. each person or entity holding a direct or indirect ownership in you under this Franchise Agreement), (each a “Owner”)~~ and Owners and their interests in you as of the Effective Date;

~~Each of your Owners and your Owners’ spouses will execute the Owners Agreement in the form attached hereto as Attachment C undertaking personally to be bound, jointly and severally, by all provisions of this Franchise Agreement and any ancillary agreements between you and us. Subject to our rights and your obligations under Section 13, you and your Owners agree. You agree to sign and deliver to us a revised versions of Attachment- B from time to time to reflect any permitted changes in the information that Attachment- B now contains;~~

3.1.6 Single Purpose Entity. The Travelin’ Tom’s Coffee Franchise Franchised Business will be the only business you operate during that the term of this Franchise Agreement (although your Owners Entity may own other, noncompetitive operate, and your organizational documents must reflect this (although the Owners in the Entity may have other business interests); and subject to any restrictions on competitive businesses contained in this Franchise Agreement).

- (2) ~~You have identified on Attachment A one of your Owners who is a natural person with at least 51% ownership interest and voting power in you and has the authority of a chief executive officer (the “Managing Owner”). If you are an entity with multiple Owners, one of your Owners who is a natural person must have at least 51% ownership interest and voting power in you (including a spouse’s interest). You have delivered to us a completed Attachment A to accurately identify the Managing Owner.~~

#### 1.D GRANT AND TERM OF FRANCHISE AGREEMENT.

~~We grant you a Franchise to own and operate a Travelin’ Tom’s Business. You must operate one proprietary Travelin’ Tom’s Coffee truck, known as the Beverage Entertainment Vehicle (“BEV”) within the Protected Territory. The term of the Travelin’ Tom’s Coffee Franchise and this Franchise Agreement begins on the Effective Date and expires ten years after the Effective Date (“Initial Term”), unless sooner terminated. You agree at all times faithfully, honestly, and diligently to perform your obligations under this Franchise Agreement and to use your best efforts to promote the Travelin’ Tom’s Business. If you are signing this franchise agreement as a successor franchise agreement, the references to the Initial Term shall mean the applicable renewal term of the successor agreement. If you do not sign a successor franchise agreement prior to the expiration of this Franchise Agreement and continue to accept the benefits of this Franchise Agreement after its expiration, then, at our option, this Franchise Agreement may be treated~~

either as (i) expired as of the date of expiration with your continued operation being a violation of this Franchise Agreement; or (ii) continued on a month-to-month basis ("Interim Period") until one party provides the other with written notice of such party's intent to terminate the Interim Period, in which case the Interim Period will terminate 30 days after receipt of the notice to terminate the Interim Period. In the latter case, all obligations of Franchisee shall remain in full force and effect during the Interim Period as if this Franchise Agreement had not expired, and all covenants, obligations, and restrictions imposed on Franchisee upon expiration of this Franchise Agreement shall be deemed to take effect upon termination of the Interim Period.

#### ~~1.E~~ RIGHT TO OPERATE MULTIPLE BEVS.

~~You must operate one BEV during the Initial Term pursuant to the terms of this Franchise Agreement. If you would like to operate more than one BEV, you~~ 3.1.7 Franchise Owner Agreement. All Owners and their spouses must sign the Franchise Owner Agreement, attached as Attachment C to this Franchise Agreement. You agree that, if any person or Entity ceases to be one of your Owners, or if any individual or Entity becomes an Owner of you (such ownership change must comply with the "Transfer Conditions" discussed later in this Franchise Agreement), you will require the new Owner (and the new Owner's spouse) to execute all documents required by us, including the Franchise Owner Agreement.

3.1.8 No Offerings. You agree that you will not offer any securities (in a public or private offering or otherwise) or engage in any type of fundraising (like crowdfunding) without our prior written consent, which may be withheld in our sole discretion.

### **4. TERRITORIAL RIGHTS AND LIMITATIONS**

~~We will be required to purchase an additional Travelin' Tom's Coffee Franchise for each BEV and execute an additional franchise agreement.~~

#### ~~2.~~ TERRITORY.

##### ~~2.A~~ TERRITORIAL RIGHTS.

~~As long as you are not in default under the Franchise Agreement, except as permitted by this Section, we (including our affiliates) will not establish, or franchise any entity to establish, a Travelin' Tom's Business within grant you a designated territory consisting of the geographic area described identified in Attachment A (the "Protected" ("Territory")). We will not operate, or grant a franchise or license to a third party to operate, a Franchised Business that operates within your Territory"), except as otherwise provided in this Section. If the population of your Protected Territory increases during the Initial Term of this Franchise Agreement by more than 25% using the population listed on zip-codes.com, we may reduce the size of your Protected Territory to 100,000 people upon 30 days' notice unless you purchase an additional BEV. franchised business.~~

We, and our affiliates, have the right to operate, and to license others to operate, Franchised Businesses at any location outside the Territory, even if doing so will or might affect your operation of your Franchised Business.

We retain all territorial rights not expressly granted to you. This includes, but is not limited to, the right to (i) to own, franchise, or operate Franchised Businesses at any location outside of the Territory, regardless of the proximity to your Franchised Business; (ii) to use the Marks and the System to sell any products or services, similar to those which you will sell, through any alternate channels of distribution within or outside

of the Territory, including, but not limited to, other channels of distribution such as television, mail order, catalog sales, wholesale to unrelated retail outlets, or over the Internet; (iii) to use and license the use of other proprietary and non-Marks or methods which are not the same as or confusingly similar to the Marks, at any location, including within the Territory, which may be similar to or different from your Franchised Business; (iv) to engage in any transaction (including purchases, mergers or conversions), involving the System or a new system, with any business, including businesses that directly or indirectly compete with your Franchised Business, regardless of their location, provided that any competing businesses located inside your Territory will not operate under the Marks; (v) to implement multi-area marketing programs which may allow us or others to solicit or sell to customers anywhere; (vi) to engage in any other business activities not expressly prohibited by this Franchise Agreement. We are not required to pay you if we exercise any of our rights, including within your Territory including orders accepted or solicited by other Travelin' Tom's franchisees. We are not required to pay you compensation for soliciting or accepting orders inside your Territory, or for exercising any of our rights within or outside of your Territory. You agree that you may face competition from us, from other franchisees and from other channels of distribution or competitive brands that we control within the Territory.

"Territory Infringement" occurs when a franchisee generates income from a customer by receiving payment for goods and/or services provided and/or rendered within the ~~protected~~ territory of another Travelin' Tom's Coffee franchisee without first obtaining that franchisee's and our written permission. A franchisee who infringes upon another franchisee's protected territory is subject to the following fines, payable to us within five days after the infringement(s) is/are proven:

~~(1) first violation — \$1,000 plus the invoice amount for the products or services sold; and~~

~~(2)(1) — second violation and subsequent violations — \$5,000 plus the invoice amount for the products or services performed.~~

~~The collected fine amounts shall become our property and any distribution of these funds shall be in our sole discretion. The total violations count is cumulative over the life of this Franchise Agreement regardless of where and when the violations occur.~~

You may provide services and sell products to customers located outside of the ~~Protected~~ Territory without being subject to Territory Infringement under the following circumstance: (1) there is no other franchisee or area developer in that area; (2) the customer initiates the contact with you; and (3) you first receive our express written consent, which may be withheld in our sole discretion. You are prohibited from directly marketing to or soliciting customers whose principal business office (or principal residence, if the customer is an individual) is outside of your ~~Protected~~ Territory unless we specify otherwise to you in writing. You agree that you must cease from marketing and soliciting or servicing customers upon our notice to you that an area has become the territory of another Travelin' Tom's franchisee. You may not advertise in any media whose primary circulation is outside of the ~~Protected~~ Territory without our permission unless the advertisement is part of a cooperative advertising program. ~~We do not grant a right of first refusal to franchisees to purchase new or existing locations. This Franchise Agreement does not grant you rights to pursue any of Franchisor's or its affiliates' business concepts other than the Travelin' Tom's Coffee Franchise.~~



## ~~2.B — TERRITORIAL RIGHTS WE RESERVE.~~

~~We and our affiliates retain certain rights with respect to the sale of similar, or dissimilar, services and products and any other activities. These rights include the right to:~~

- ~~(1) — use, and to license others to use, the Marks and the System for the operation of Travelin' Tom's Coffee Franchises at any location other than in the Protected Territory, including co-branding activities, regardless of proximity to the Protected Territory;~~
- ~~(2) — use, license, and franchise the use of trademarks or service marks other than the Marks, whether in alternative channels of distribution or at any location, including the Protected Territory, in association with operations that are similar to or different than the Travelin' Tom's Coffee Franchise, including co-branding activities;~~
- ~~(3) — use the Marks and the System in connection with the provision of other services and products, or in alternative channels of distribution at any location outside the Protected Territory;~~
- ~~(4) — offer the services or products similar to those offered by Travelin' Tom's Coffee Franchises, or grant others the right to offer the services or products, whether using the Marks or other trademarks or service marks, through alternative channels of distribution, including without limitation, by Internet, mail order sales, telemarketing, or other direct marketing sales, wholesalers, retail outlets, or other distribution outlets (other than Travelin' Tom's Coffee Franchises), whether inside or outside the Protected Territory;~~
- ~~(5) — utilize any websites, including social media websites, utilizing a domain name incorporating the word "Travelin' Tom's Coffee", or the Marks, or similar derivatives thereof;~~
- ~~(6) — to engage in any transaction, including to purchase or be purchased by, merge, or combine with, to convert to the System, or be converted into a new system or chain with any business, whether franchised or corporately owned, including, but not limited to, a business that competes directly with your Travelin' Tom's Coffee Franchise, wherever located, provided that in such situations the newly acquired businesses located in your Protected Territory will not operate using the Marks;~~
- ~~(7) — to use and license the use of technology to non-A franchisee locations inside and outside the Protected Territory;~~
- ~~(8) — implement multi-area marketing programs which may allow Franchisor or others to solicit or sell to customers anywhere or direct such customers to the Travelin' Tom's Coffee Franchise that Franchisor chooses, in its discretion. Franchisor reserves the right to issue mandatory policies to coordinate such multi-area marketing programs; and~~
- ~~(9) — to engage in any other business activities not expressly prohibited by this Franchise Agreement, both within and outside your Protected Territory.~~

~~If we engage in electronic commerce through the Internet, or sell through any other alternative channel of distribution, and we receive orders for any products or services calling for delivery or performance in your Protected Territory, then we will offer the order to you at the price we establish. If you choose not to fulfill the order or are unable to do so, then we, our affiliate, or a third party we designate (including who~~



~~infringes upon another Travelin' Tom's Business) may fulfill the order, and you will be entitled to no compensation in connection with the sale.~~

### ~~3. DEVELOPMENT AND OPENING OF THE TRAVELIN' TOM'S COFFEE FRANCHISE.~~

#### ~~3.A FRANCHISE PREMISES.~~

~~Travelin' Tom's Coffee Franchises are typically operated out of the franchisee's home or BEV but may be operated from office buildings, business parks, and other commercial real estate locations. If you decide to operate your Travelin' Tom's Coffee Franchises out of an office, you will be solely liable for its compliance with all applicable business ordinances and building codes, and for obtaining all necessary health, building, sign, and other permits, licenses, and bonds, as may be required for the operation of the office.~~

~~While most Travelin' Tom's Businesses are mobile, you may operate your Travelin' Tom's Business out of a BEV at a fixed location ("Fixed Location Business") with our written approval, which we may withhold in our sole discretion. If we give you permission to operate a Fixed Location Business, you must comply with all applicable zoning, land use, and other legal requirements, as well as obtain all necessary permits, licenses, and approvals required to operate from a fixed location at your sole expense. You must operate your Fixed Location Business in accordance with any fixed location policies, procedures, and standards set forth in our Brand Manual.~~

#### ~~3.B BEVERAGE ENTERTAINMENT VEHICLE.~~

~~You must purchase the BEV from us or our affiliate. The current cost range of the BEV is between \$156,450 and \$168,450. You will pay the current cost of the BEV in effect at the time of delivery, which may be more than the price at the time of the signing of this Franchise Agreement. You will pay a non-refundable \$15,000 deposit when you sign this Franchise Agreement and pay the entire remaining balance in full when you take delivery of your BEV. You may be able to obtain financing for the BEV upon the terms in the Franchise Disclosure Document. BEV payments are non-refundable. You may not utilize any other truck or vehicle, other than the BEV or any Additional Equipment (see Section 3D), in the operation of your Travelin' Tom's Coffee Franchise and the BEV and any Additional Equipment must only be used for the operation of your Travelin' Tom's Coffee Franchise and not for any other purpose. You must operate at least one BEV and may operate multiple BEVs in the Protected Territory. We may not allow you to purchase any additional BEVs or Additional Equipment if you are in default of this Franchise Agreement or if you have any unpaid amounts due to us or any of our affiliates.~~

~~Although all BEVs will follow a consistent theme, the details of their design may differ often, based upon local requirements. If modifications to the BEV are necessary to comply with applicable local laws and/or ordinances, you may be required to pay a fee to us or our affiliate for the costs and expenses in making the necessary modifications to the BEV. You will also be required to purchase an initial inventory of Travelin' Tom's Coffee equipment, uniforms, and supplies from us or our affiliates when you purchase the BEV. These payments are non-refundable.~~



Because you do not have to locate a site from which to operate your Travelin' Tom's Business, we do not provide you with assistance in doing so. You may open an office, but it is not required and does not need to be approved by us. You must find a location to store the BEV or any Additional Equipment, which may be at your residence if permitted. ~~You must use our approved supplier for the window tinting, wrapping, and upfitting of your BEV. Any person who drives your BEV must be 18 years of age or older and have a valid driver's license, and each of your BEVs must be properly licensed, registered and insured.~~ Should your BEV or any Additional Equipment be territory is subject to a manufacturer's vehicle safety recall, you must immediately notify us in writing and perform the required repairs, maintenance, and/or inspections at your sole cost and expense before using your BEV or any Additional Equipment in the operation of your Travelin' Tom's Business. You acknowledge and agree that we are not responsible for any obligations or costs associated with the operation of the BEV or any Additional Equipment, including any safety recall of the BEV or of any Additional Equipment. the following fines, payable to us within five days after the infringement(s) is/are proven:

(1) first violation - \$1,000 plus the invoice amount for the products or services sold; and

(2) second violation and subsequent violations - \$5,000 plus the invoice amount for the products or services performed.

### 3.C — COMPUTER SYSTEM, SOFTWARE & RELATED EQUIPMENT.

We reserve the right to periodically designate computer hardware or software, including a point-of-sale system, for you to use. We require you to use our proprietary KonaOS operating software in the operation of your Travelin' Tom's Business. In order to provide for inevitable but unpredictable changes to the technology, you agree that we will have the right to establish, in writing, reasonable new standards for the implementation of technology in the System. If required by us, you agree to purchase point-of-sales hardware and/or software ("POS System") and pay ongoing POS System fees to us, our affiliate, and/or the third-party vendor we designate. We do not currently have independent access to your computer system but reserve the right to conduct periodic audits for any accounting records contained in such hardware. You agree to provide us with any and all codes, passwords, and information necessary to access your computer system, point-of-sale systems, and software and must receive our prior written approval before changing such codes, passwords, and other necessary information.

You will be responsible for any increase in fees that result from any upgrades, modifications, or additional systems or software and for any increases in fees from suppliers. We reserve the right to: (i) change or add approved suppliers or vendors of these services at any time, in our sole discretion; (ii) enter into a master license agreement with any software or technology supplier and sublicense the software or technology to you, in which case we may charge you for all amounts that we must pay to the licensor based on your use of the software or technology; (iii) create proprietary software or technology that must be used by Travelin' Tom's Coffee franchisees, in which case we may require that you enter into a license agreement with us and pay us reasonable initial and ongoing licensing, support, and maintenance fees; and (iv) increase or decrease the Technology Fee, Business Management Software Fee (defined in Section 4.E), and other technology and licensing and expenses that you are required to pay under this Franchise Agreement at any time, upon 30 days' written notice to Franchisee.

You must obtain and use at least one Travelin' Tom's Coffee email address from us. You must pay us \$168 per year for each email address you obtain, which is currently due at the same time as your



Royalty as state below in Section 4.C. We reserve the right to increase this fee upon 30 days' written notice to you. Additionally, if you have more than one "Find a Travelin' Tom's Coffee Mini Website," then you must have and pay for a different email address for each mini website. You must have access to our approved accounting software (currently QuickBooks) and any other software that we required you to use.

### 3.D — ADDITIONAL EQUIPMENT.

While we currently do not have any additional equipment ("**Additional Equipment**") available, we may make such Additional Equipment available for purchase in the future for use in the Protected Territory. ~~The purchase of such Additional Equipment will be optional.~~ If we make such Additional Equipment available and you decide to purchase Additional Equipment, you must sign our then current "**Additional Equipment Amendment**," the current form of which is attached to the Franchise Disclosure Document in Exhibit H. You will be required to pay the then current Additional Equipment ~~Royalty~~ Any fines we collect shall become our sole property and may be distributed by us in our sole discretion. You agree that violations are counted cumulatively over the life of the Franchised Business regardless of where and when they occur, including in any prior terms if this is a Successor Franchise Agreement.

## **5. TERM AND RENEWAL**

### **5.1 Generally**

The term of this Franchise Agreement will begin on the Effective Date and continue for 10 years ("Term"). If you would like to operate more than one BEV, you will be required to purchase an additional franchised business for each BEV and execute an additional franchise agreement. If this Franchise Agreement is the initial franchise agreement for your Franchised Business, you may enter into a maximum of two successor franchise agreements (a "Successor Franchise Agreement"), as long as you meet the conditions for renewal specified below. The Successor Franchise Agreement shall be the current form of franchise agreement we use in granting Travelin' Tom's franchises as of the expiration of the Term. The terms and conditions of the Successor Franchise Agreement may vary materially and substantially from the terms and conditions of this Franchise Agreement, including a higher Royalty. Each successor term will be ten years. If you are signing this Franchise Agreement as a Successor Franchise Agreement, the references to "Term" shall mean the applicable renewal term of the Successor Franchise Agreement. Except as otherwise provided in this Section, you will have no further right to operate your Franchised Business following the expiration of the successor term unless we grant you the rights to enter into another franchise agreement, in our sole discretion. If you are renewing a prior franchise agreement with us under this Franchise Agreement, the renewal provisions in your initial franchise agreement will dictate the length of the Term of this Franchise Agreement, and your remaining renewal rights, if any.

### **5.2 Renewal Requirements**

To enter into a Successor Franchise Agreement, you must:

5.2.1 Notice. Notify us in writing of your desire to enter into a Successor Franchise Agreement not less than six months nor more than twelve months before the expiration of the Term;

5.2.2. No Defaults. Not be in default under this Franchise Agreement or any other agreement with us or any affiliate of ours at the time you send the renewal notice or the time you sign the Successor Franchise Agreement or on the date on which the term of the Successor Franchise would commence and you must not have received more than three separate written notices of default from us in the previous term;



5.2.3 Modifications. Have the right to maintain possession of your BEV and, if your BEV is not in compliance with our current standards you must either: (i) replace, remodel, repair and/or upgrade the BEV (and any Additional Equipment) you have for your Franchised Business in accordance with Section 13.4 of this Franchise Agreement, as well as add or replace improvements, assets, signage, and otherwise modify the Franchised Business as we require to comply with our then-current System standards for new Travelin' Tom's Coffee franchised businesses at your sole cost and expense;

5.2.4 Successor Franchise Agreement. Sign the Successor Franchise Agreement and all ancillary documents we require franchisees to sign;

5.2.5 General Release. Sign and have each of your Owners sign our current form of general release which contains a release of all claims, known or unknown, against us and our affiliates and subsidiaries, and our and their respective members, officers, directors, agents and employees, in both their corporate and individual capacities. Unless otherwise prevented by state law, we will consider your failure to sign the release within 30 days after it is delivered to you to be an election not to acquire a Successor Franchise;

5.2.6 Renewal Fee. Pay us a non-refundable renewal fee of \$7,500 ("Renewal Fee"); and

5.2.7 Additional Actions. Take any additional actions we reasonably require.

### **5.3 Notice Regarding Renewal Decision**

Within six months after we receive your notice of intent to renew the Franchise Agreement of our decision to: (a) grant you a Successor Franchise Agreement; (b) grant you a Successor Franchise Agreement on the condition you correct existing deficiencies of the Franchised Business or in your operation of the Franchised Business; (c) not grant you a Successor Franchise Agreement based on our determination you or your Owners have not fully complied with this Franchise Agreement during its Term or were not in full compliance with this Franchise Agreement and all System standards on the date you gave us written notice of your election to enter into a Successor Franchise Agreement; or (d) not grant you a Successor Franchise Agreement because we no longer maintain a franchise program for Travelin' Tom's Coffee. If applicable, our notice will: describe the remodeling, expansion, improvements, and/or modifications required to bring your Franchised Business, the BEV (and any Additional Equipment) into compliance with Travelin' Tom's Coffee franchised businesses, and state the actions you must take to correct operating deficiencies and the time in which you must correct these deficiencies.

If we elect not to grant you a Successor Franchise Agreement, our notice will describe the reasons for our decision. If we elect to grant you a Successor Franchise Agreement, your right to acquire a Successor Franchise Agreement is subject to your full compliance with all of the terms and conditions of this Franchise Agreement through the date of its expiration, in addition to your compliance with the obligations described in our notice. If our notice states that you must remodel the Franchised Business and/or must cure certain deficiencies of the Franchised Business or its operation as a condition to our granting you a Successor Franchise Agreement, we will give you written notice of our decision not to grant a Successor Franchise Agreement, based upon your failure to complete the remodeling and/or to cure those deficiencies, not less than 90 days before this Franchise Agreement expires, provided, however, that we need not give you this 90 days' notice if we decide not to grant you a Successor Franchise Agreement due to your breach of this Franchise Agreement during the 90 day period before it expires. We may allow this Franchise Agreement to continue on an Interim Term (defined below) to give you either reasonable time to correct deficiencies or the 90 days' notice of our refusal to grant a Successor Franchise Agreement.

### **5.4 Interim Term**



If you do not sign a Successor Franchise Agreement after the expiration of the Term and you continue to accept the benefits of this Franchise Agreement, then, at our option, this Franchise Agreement may be treated either as: (i) expired as of the date of the expiration meaning you are operating the Franchised Business without a valid franchise agreement in violation of our rights; or (ii) continued on a month-to-month basis (“Interim Term”) until either party provides the other party with 30 days’ prior written notice of their intention to terminate the Interim Term. In the latter case, all of your obligations will remain in full force and effect during the Interim Term as if this Franchise Agreement had not expired, and all obligations, restrictions and covenants imposed on you upon the expiration or termination of this Franchise Agreement will be deemed to take effect upon the termination of the Interim Term. Except as permitted by this Section, you have no right to continue to operate your Franchised Business following the expiration of the Term.

## **6. FEES**

### **6.1 Late Fee**

If any sums due under this Franchise Agreement have not been received by us when due then, in addition to those sums, you must pay us \$25 per day, plus the daily equivalent of twelve percent (12%) per year simple interest or the highest rate allowed by law, whichever is less (“Late Fees”). Such interest will be in addition to any other remedies we may have under law or equity. We may debit your bank account automatically or deduct from amounts we owe you for service charges and interest. You acknowledge this Section is not our agreement to accept any payments after they are due or our commitment to extend credit to, or otherwise finance your operation of, the Franchised Business. If no due date has been specified by us, then interest accrues from the original due date until payment is received in full.

### **6.2 Payment Methods**

You must complete our automated clearing house (ACH) authorization form allowing us to electronically debit a bank account you designate (“Franchise Account”) for: (i) all fees payable to us under this Franchise Agreement (other than the Initial Franchise Fee); and (ii) any other amounts you owe to us or any of our affiliates including, but not limited to, those owed for the purchase of products or services. We will debit your Franchise Account for these payments on or after the due date. You must sign and deliver to us any other documents we or your bank may require authorizing us to debit your Franchise Account for these amounts.

You must deposit all revenue you generate from operating your Franchised Business into the Franchise Account. You must make sufficient funds available for withdrawal from the Franchise Account by electronic transfer before each due date. If any check or electronic payment is unsuccessful due to insufficient funds, stop payment or any similar event, any excess amounts you owe will be payable upon demand, together with a non-sufficient funds fee of \$100 per occurrence plus Late Fees. If we allow you make any payment to us or our affiliate(s) by credit card for any fee required, we may charge a payment service fee of up to 4% of the total charge. We reserve the right to periodically specify (in the Brand Manual or otherwise in writing) different required payment methods for any payment due to us or our affiliates.

### **6.3 Payment Frequency**

We reserve the right to periodically specify (in the Brand Manual or otherwise in writing) different payment frequencies (for example, weekly/biweekly/monthly payments) for any payment due to us or our affiliates.

### **6.4 Application of Payments**



~~We have sole discretion to apply any payments from you to any past due indebtedness of yours or in any other manner we feel appropriate. We are not obligated to follow any instructions you provide for allocation of the payments. We may set off any amounts you or your Owners owe us or our affiliates against any amounts we or our affiliates owe you or your Owners. You may not withhold payment of any amounts you owe us due to our alleged nonperformance of any of our obligations under this Franchise Agreement as stated below in Section 4C. The Additional Equipment offered and the Additional Equipment Royalty for such equipment may change during the Initial Term and any successor terms. You will not be permitted to purchase any Additional Equipment until your BEV is open and operating and you are in compliance with this Franchise Agreement. You may not transfer any Additional Equipment without our prior written consent. We may approve or reject your request to transfer Additional Equipment in our sole discretion. In addition, we reserve the right to condition our approval of a transfer on: (i) you being in good standing under this Franchise Agreement at the time of transfer; (ii) you paying off any loans or debts related to the Additional Equipment; (iii) Additional Equipment being modified in such a way to protect the System and/or any proprietary interests or trade secrets we have in the Additional Equipment; (iv) that the purchaser of the Additional Equipment be an existing Travelin' Tom's Coffee franchisee; and/or (v) such additional conditions that we deem reasonable in the circumstances. If we approve of your request for a transfer of Additional Equipment, you agree to pay us a transfer fee of \$500 per Additional Equipment.~~

~~3.E BEVERAGE ENTERTAINMENT VEHICLE AND ADDITIONAL EQUIPMENT STANDARDS.~~

~~Throughout the term of this Franchise Agreement, you must:~~

- ~~(1) operate and maintain the BEV and any Additional Equipment in accordance with our System Standards, as may be provided in the Brand Manual or otherwise in writing and, at our request, periodically update or improve the decoration and/or design of the BEV and any Additional Equipment. You may be required to pay a fee in the event that we or our affiliate needs to modify any part of the BEV and any Additional Equipment from our standard specifications in order to meet with relevant state or local health department requirements in your Protected Territory. Any required update or improvement must be made within 30 days of our delivery of notice to you that such updates or improvements must be made at your sole expense;~~
- ~~(2) maintain the condition of the BEV and any Additional Equipment as clean, orderly, and consistent with the image of a Travelin' Tom's Coffee Franchise as we prescribe from time to time, at your sole expense, including, but not limited to, allowing us to rewrap the BEV and any Additional Equipment, at your expense, as needed but no later than after seven years of operation for your BEV. You agree to remodel each BEV (and any Additional Equipment) you operate at least once every seven years to meet our then current System Standards at your sole cost and expense or more frequently if any BEV (or any Additional Equipment) is not in compliance with our then current System Standards. All necessary updates, removal of vinyl, and installation of vinyl must be performed at an authorized upfit facility, which, as of the Effective Date, is currently located in Florence, KY (this location may change over the Initial Term);~~
- ~~(3) not use the BEV or any Additional Equipment for any purpose other than the operation of the Travelin' Tom's Coffee Franchise and store the BEV and Additional Equipment in accordance with our System Standards;~~

- (4) ~~place or display on the BEV and any Additional Equipment only the signs, emblems, branding audio content, video content, lettering, and logos we provide or approve from time to time;~~
- (5) ~~send us photographs of the BEV and any Additional Equipment at least once per calendar year, as we request;~~
- (6) ~~allow us to inspect the BEV and any Additional Equipment in the frequencies and manners described in the System Standards; and~~
- (7) ~~not transfer, sell, pledge, give away, decommission, or otherwise encumber the BEV and any Additional Equipment without our prior written approval and, except for a transfer or sale of the BEV or any Additional Equipment to us, our affiliates, or another Travelin' Tom's Coffee Franchisee, you must fully decommission the BEV and any Additional Equipment by removing all proprietary items and Marks from the BEV and Additional Equipment in accordance with our System Standards, including, but not limited to: all vinyl wraps, internal and external FlavorWave components and signage, bottle racks, drip trays, external fins and awnings, LED lighting, menu boards, stickers, decals, KIB display monitor, and scent diffuser. Once the BEV and/or Additional Equipment has been fully decommissioned, you must allow us to inspect or send photographs to us for our review and approval.~~

### 3.F ~~BUSINESS OPENING.~~

## 6.5 Payment Obligations

Your obligations to pay us the fees under this Franchise Agreement are absolute and unconditional, and will remain in full force and effect throughout the entire duration of this Franchise Agreement, and shall continue for such period of time thereafter as you owe us fees under this Franchise Agreement. You will have no right to offset any fees paid to us and must pay us all fees regardless of any claims you may have against us. We will have the right, at any time before or after termination of this Franchise Agreement, without notice to you, to offset any amounts or liabilities you may owe to us against any amounts or liabilities we may owe you under this Franchise Agreement or any other agreement, loan, transaction or relationship between the parties. Without limiting the generality of the foregoing, you agree that you will not, on grounds of the alleged nonperformance by us of any of our obligations, withhold any fees due to us or our affiliates or amounts due to us for purchases by you or any other amounts due to us.

## 6.6 Initial Franchise Fee

You agree ~~not to open the Travelin' Tom's Business for business until:~~

- (1) ~~we notify you in writing that the Travelin' Tom's Coffee Franchise meets our standards and specifications;~~
- (2) ~~your Managing Owner, your Designated Manager (as defined in Section 9F), and any other required attendees satisfactorily complete applicable portions of training before opening;~~
- (3) ~~you to pay us the initial franchise fee and all other amounts then due to us; and~~
- (4) ~~you give us certificates for all required insurance policies (as described in Section 9G).~~





Subject to your compliance with these conditions, you agree to open the Travelin' Tom's Business to the public no more than 12 weeks after the Effective Date. The date that the Travelin' Tom's Coffee Franchise first opens to the public shall be the "Opening Date."

~~3.G — NOTICE.~~

~~If you believe that we (or our affiliates) have failed to adequately provide any assistance or services to you as provided in this Franchise Agreement, you will notify us in writing within 30 days following ours or our affiliates' provision of such assistance or services. Without the timely provision of such notice to us, you will be deemed to conclusively acknowledge that all such assistance or services required to be provided by us or our affiliates were sufficient and satisfactory in your judgment.~~

~~4. — "FEES.~~

~~4.A — INITIAL FRANCHISE FEE.~~

You must pay us an initial franchise fee of \$15,000 ("Initial Franchise Fee") listed in Attachment A in one lump sum when you sign this Franchise Agreement. The Initial Franchise Fee is fully earned by us when paid and is not non-refundable under any circumstances.

~~4.B — RESERVATION FEE.~~

~~Provided you and your affiliates are not in default of once this Franchise Agreement or any other agreement with us or our affiliates, you may, subject to availability and our approval, reserve additional territories by paying us a territory reservation fee of \$10,000 per territory ("Additional has been signed. If this Franchise Reservation Fee") and entering into our Additional Franchise Reservation Agreement, is the current form of which is attached to the Franchise Disclosure Document in Exhibit H. The Additional Franchise Reservation Fee and Additional Franchise Reservation Agreement allows you to hold a territory for up to 12 months and provides an additional right of first refusal for an additional 12 months, after which your rights will expire and will not be renewed. You can only operate in an additional territory under a separate renewal of a prior franchise agreement with us and you must sign our for an existing Franchised Business or the transfer of the Franchised Business from another franchisee, then-current franchise agreement in order to do so. If you are purchasing a new BEV, the Additional Franchise Reservation Fee will be applied to the Initial Franchise Fee of the additional Travelin' Tom's Coffee Franchise at the time you sign the corresponding franchise agreement. The Additional Franchise Reservation Fee will not be applied to the no Initial Franchise Fee if you purchase a used BEV. The Additional Franchise Reservation Fee is non-refundable under any circumstances, even if you do not open an additional Travelin' Tom's Coffee Franchise. is due.~~

~~ROYALTY~~ ROYALTY FEE.

Beginning on the Opening Date, and continuing for the term of this Franchise Agreement, including any Interim Period, you agree to pay us the royalty fees listed below (the "Royalty" or "Royalties") in either three, six, or nine installments per year ("BEV Royalty Schedule"):

Time Period*	Total Royalty	BEV Royalty Schedule (If you make 3 installment payments per year)	BEV Royalty Schedule (If you make 6 installment payments per year)	BEV Royalty Schedule (If you make 9 installment payments per year)
Years 1-2	\$3,000	June 30: \$1,000 July 31: \$1,000 August 31: \$1,000	May 31: \$500 June 30: \$500 July 31: \$500 August 31: \$500 September 30: \$500 October 31: \$500	April 30: \$333 May 31: \$333 June 30: \$334 July 31: \$333 August 31: \$333 September 30: \$334 October 31: \$333 November 30: \$333 December 31: \$334
Years 3-6	\$4,000	June 30: \$1,333 July 31: \$1,333 August 31: \$1,334	May 31: \$666 June 30: \$666 July 31: \$667 August 31: \$667 September 30: \$667 October 31: \$667	April 30: \$444 May 31: \$445 June 30: \$444 July 31: \$445 August 31: \$444 September 30: \$445 October 31: \$444 November 30: \$445 December 31: \$444
Years 7-10 (plus any Interim Period, if applicable)*	\$5,000	June 30: \$1,666 July 31: \$1,667 August 31: \$1,667	May 31: \$833 June 30: \$833 July 31: \$833 August 31: \$833 September 30: \$834 October 31: \$834	April 30: \$556 May 31: \$555 June 30: \$556 July 31: \$555 August 31: \$556 September 30: \$555 October 31: \$556 November 30: \$555 December 31: \$556
<del>Fixed Location Business for Initial Term and Interim Period, if applicable</del>	<del>\$2,000</del>	<del>June 30: \$666 July 31: \$667 August 31: \$667</del>	<del>May 31: \$333 June 30: \$333 July 31: \$333 August 31: \$333 September 30: \$334 October 31: \$334</del>	<del>April 30: \$222 May 31: \$222 June 30: \$222 July 31: \$222 August 31: \$222 September 30: \$222 October 31: \$222 November 30: \$223 December 31: \$223</del>



~~\*If you are an existing franchisee and this agreement is a successor franchise agreement or if~~ \*If you are a transferee signing this Franchise Agreement, the date for determining your BEV Royalty Schedule will be determined from the date the initial Franchise Agreement was signed for the Travelin' Tom's Franchised Business you are continuing to operate or acquired. ~~Your Royalty will be our then current successor Royalty, which may materially differ from the amounts set forth in the chart above.~~

If you purchase Additional Equipment, you will be required to pay additional royalty fees for the per piece of Additional Equipment (~~“Additional Equipment~~ that you purchase (**“AE Royalty”**). The ~~Additional Equipment~~ AE Royalty will depend on the type of Additional Equipment and will be the then-current rate at the time you enter into the Additional Equipment Amendment. The ~~Additional Equipment~~ AE Royalty will be due for as long as you own the Additional Equipment. For this Franchise Agreement, all references to Royalty shall include any ~~Additional Equipment~~ AE Royalty unless otherwise noted. We reserve the right to adjust your Royalty annually based on the Consumer Price Index as defined by the U.S. Bureau of Labor Statistics.

#### **6.8 Brand Fund Contribution**

4.C—You must pay a “Brand Fund Contribution” in the amount we specify in our Brand Manual, which is currently \$1,000 per year. Brand Fund Contributions are due at the same time as your Royalty or at such other date we choose, as may be more fully set forth in the Brand Manual. We reserve the right to adjust your Brand Fund Contributions annually by up to 10% TERRITORY CHANGE.

~~You may not revise or amend your Protected Territory (a “Territory Revision”) without our express written consent, which we may approve or reject in our sole discretion. If you request and we approve of a Territory Revision, you agree to pay us a fee equal to \$1,000 if the revisions are made within 30 days of delivery of the BEV; or \$2,500 if the revisions are made between 31 and 90 days of delivery of the BEV. No revisions or amendments will be approved to your Protected Territory after 90 days of delivery of the BEV.~~

~~You may not relocate your Protected Territory (a “Territory Relocation”) without our express written consent, which we may approve or reject in our sole discretion. If you request and we approve of a Territory Relocation, you agree to pay us a fee of \$2,500.~~

~~If you wish to amend your Protected Territory after the Effective Date, you must submit to us a written request for approval of the proposed Territory Revision or Territory Relocation, upon 30 days’ notice to you. Additionally, the Council, if established, may increase your Brand Fund Contributions at any time upon 75% approval from the Council’s members. The Brand Fund Contribution will be used for the Travelin’ Tom’s brand fund (“Brand Fund”) to promote awareness of our brand and to improve our System.~~

#### **6.9 Technology Fee and Business Management Software Fee**

~~We may, but have no obligation to, grant such a written request in our sole discretion. Among the other factors which we may consider are any of our or our affiliates obligations under any other contract, the effects that the Territory Revision or Territory Relocation might have on the customers’ services by your Protected Territory, the proximity to and possible effects of the Territory Revision or Territory Relocation on any other franchisee’s Protected Territory or Travelin’ Tom’s Business, any possible effects of the Territory Revision or Territory Relocation on any aspect of the System, and any franchisee recruitment efforts that have been directed towards the areas that might be covered by or affected by the Territory Revision or Territory Relocation. If we grant your request for a Territory Revision or Territory Relocation, in addition to payment of the applicable fee by you, we may condition such approval on fulfillment of any conditions on that Territory Revision or Territory Relocation that we deem reasonable.~~

#### 4.D — TECHNOLOGY FEE AND BUSINESS MANAGEMENT SOFTWARE FEE.

You must pay us our then-current technology fee (the “**Technology Fee**”), which is \$500 per year for each Travelin’ Tom’s (“Technology Fee”) throughout the Term of this Franchise Agreement beginning on the date your Franchised Business you operate. opens for the use of certain technologies used in the Franchised Business. The Technology Fee is currently \$500 per year. In addition to the Technology Fee, we charge you a separate, you must pay us our then-current fee for the usage of our proprietary KonaOS operating software (or then-current software) (the “**Business Management Software Fee**”). For existing franchisees, the Business Management Software Fee is currently \$49 per month for one BEV operated by existing franchisees and \$29 per month for each additional BEV operated, and \$19 per month for every ancillary unit operated.

We reservecan change the rightsoftware and technology that must be used by Franchised Business at any time we deem appropriate in our sole discretion, which may result in changes to periodically increase the Technology Fee and/or Business Management Software Fee upon written notice to you based on updates, upgrades, modifications or additional software. We may permit you to use the. An increase in third-party fees may also cause the Technology Fee and/or Business Management Software Fee to increase. You will be responsible for another businessany increase in fees that is not your Travelin’ Tom’s Business for an result from any upgrades, modification, or additional fee, which permission wesoftware by us or by third-party vendors. We may grant or withhold in our sole discretion. Yourmodify the Technology Fee and/or Business Management Software Fee will be invoiced and paid in the same manner as your Royalties, or as otherwise stated in our Brand Manualupon written notice to you.

#### 4.E — APPLICATION OF PAYMENTS.

Despite any designation you make, we may apply any of your payments to any of your past due indebtedness to us. We may set off any amounts you or your Owners owe us or our affiliates against any amounts we or our affiliates owe you or your Owners. You may not withhold payment of any amounts you owe us due to our alleged nonperformance of any of our obligations under this Franchise Agreement.

#### 4.F — METHOD OF PAYMENT.

The Royalty and Brand Fund Contributions (see Section 10A below) shall be payable to Franchisor on a yearly basis via automated clearing house (“ACH”). You must complete our ACH authorization form allowing us to electronically debit a bank account you designate (“**Franchise Account**”) for: (i) all fees payable to us under this Franchise Agreement (other than the Initial Franchise Fee); and (ii) any other amounts you owe to us or any of our affiliates including, but not limited to, those owed for the purchase of products or services. We will debit your Franchise Account for these payments on or after the due date. You must sign and deliver to us any other documents we or your bank may require authorizing us to debit your Franchise Account for these amounts. We have the right to periodically specify (in the Brand Manual or otherwise in writing) different payees and/or payment methods, such as, but not limited to, weekly or monthly payment, payment by auto draft, credit card, and payment by check. If you make any payment to us by credit card for any fee or required payment, we may charge a service charge of up to 3% of the total charge. You shall not subordinate to any other obligation its obligation to pay the Royalty or any other fee or charge due to us or our affiliate under this Franchise Agreement.

We may require you to remit fees and other amounts due to us under this Franchise Agreement via EFT or other similar means utilizing an approved computer system or otherwise. You agree to comply with our procedures and/or perform such acts and deliver and execute such documents as may be necessary to assist in or accomplish payment by such method.



~~Any other fees that are paid at the same time as your Royalty will be paid according to the relevant payment policies as stated in our Brand Manual.~~

#### ~~4.G — LATE PAYMENTS/INSUFFICIENT FUNDS.~~

~~Any payment not made by the due date will be deemed overdue. In the event of any overdue amounts, you will pay us, besides the overdue amounts, interest on such amounts from the date such amount were due until paid, at \$25 per day plus the lesser of: (i) 12% simple interest per year; or (ii) the highest interest rate allowed by law, whichever is less, calculated daily. Such interest will be in addition to any other remedies we may have under law or equity. We may debit your bank account automatically or deduct from amounts we owe you for service charges and interest. You acknowledge this Section is not our agreement to accept any payments after they are due or our commitment to extend credit to, or otherwise finance your operation of, the Travelin' Tom's Coffee Franchise.~~

~~If any check or electronic fund transfer payment from you to us does not successfully convey funds due to insufficient funds, stop payment instructions, or any similar event, you shall pay, upon demand, a non-sufficient funds fee of \$100 per incidence.~~

#### ~~4.H — DOCUMENT FEE.~~

You must pay our then-current technology business solutions fees to approved suppliers for certain business solutions that will support your business efficiencies. These may include phone systems, security systems, scheduling software, employee shift/task management software, inventory solution and any other solutions we may require in the Brand Manual for your Franchised Business. We reserve the right to upgrade, modify and add new systems, which may result in additional initial and ongoing expenses that you will be responsible for. You will be responsible for any increase in fees that result from any upgrades, modifications or additional systems and for any increase in fees from third-party providers. We may include these third-party fees in the Technology Fee and/or Business Management Software Fee and pay suppliers directly on our behalf.

#### **6.10 Document Fee**

You must pay us a document fee of \$250 ("**Document Fee**") if you need an additional copy of your franchise disclosure document or signed Franchise Agreement. ~~You must be a current franchisee in good standing in order to obtain any documents from us.~~

#### ~~4.I — MONITOR CONTENT MANAGEMENT SOFTWARE FEE.~~

#### **6.11 Monitor Content Management Fee**

Your KEVBEV will be equipped with an exterior monitor for displaying content that you can customize in accordance with our Monitor Guideline and Usage Policy contained in our Brand Manual. You will pay us a "**Monitor Content Management Software Fee**" of \$240 per year per monitor. The Monitor Content Management Software Fee is due at the same time as your Royalty.

#### **6.12 Other Fees and Payments**

You agree to pay all other fees, expense reimbursements, and all other amounts specified in this Franchise Agreement in a timely manner. You also agree to promptly pay us an amount equal to all taxes

levied or assessed against us based upon products or services you sell or based upon products or services we furnish to you (other than income taxes we pay based on amounts).

## **7. ESTABLISHING YOUR FRANCHISED BUSINESS**

### **7.1 Opening**

You must open your Franchised Business to the public within 3 months of the Effective Date. You may not open your Franchised Business before: (i) all required attendees have successfully completed Initial Training (defined below); (ii) you purchase all required insurance and provide us with all required insurance certificates; (iii) you obtain all required licenses, permits and other governmental approvals required to establish, open and operate the Franchised Business; (iv) you pay all initial fees owed to us; and (v) you receive our written approval.

If you believe that we (or our affiliates) have failed to adequately provide any assistance or services to you as provided in this Franchise Agreement, you will notify us in writing within 30 days following ours or our affiliates' provision of such assistance or services. Without the timely provision of such notice to us, you will be deemed to conclusively acknowledge that all such assistance or services required to be provided by us or our affiliates were sufficient and satisfactory in your judgment.

If this Franchise Agreement is the second or subsequent territory under an Area Development Agreement no initial training will be provided by us and you must immediately begin operating the BEV upon signing this Franchise Agreement upon delivery from us, subject to any applicable new or different permits, licenses, governmental approvals or insurance required.

### **7.2 Site Selection**

Because most of the Travelin' Tom's franchisees will operate their Franchised Business out of their residence or BEV, we do not provide site selection assistance. If you decide to operate your Franchised Business out of an office, you will be solely liable for its compliance with all applicable business ordinances and building codes, and for obtaining all necessary health, building, sign, and other permits, licenses, and bonds, as may be required for the operation of the office. You may not operate your Franchised Business from a fixed location without our written approval, which we may withhold in our sole discretion and enter into our then-current form of fixed location amendment, the current form of which is attached to the Franchise Disclosure Document in Exhibit I.

### **7.3 Territory Revision**

You may not revise or amend your Territory (a "Territory Revision") without our express written consent, which we may withhold in our sole discretion. If you request and we approve of a Territory Revision, you will pay us a fee of \$1,000 if the Territory Revision is made within 30 days of delivery of the BEV; or \$2,500 if the Territory Revision is made between 31 and 90 days of delivery of the BEV. You cannot request a Territory Revision more than 90 days the delivery of the BEV.

You may not relocate your Territory (a "Territory Relocation") without our express written consent, which we may approve or reject in our sole discretion. If you request and we approve of a Territory Relocation, you agree to pay us a fee of \$2,500.

If you wish to amend your Territory after the Effective Date, you must submit to us a written request for approval of the proposed Territory Revision or Territory Relocation, which we may accept or reject in

our sole discretion. We may, but have no obligation to, grant such a written request in our sole discretion. If we grant your request for a Territory Revision or Territory Relocation, in addition to payment of the applicable fee by you, we may condition such approval on fulfillment of any conditions that we deem reasonable.

#### **7.4 Additional Equipment**

We may make such additional equipment (“Additional Equipment”) available for purchase in the future for use. The purchase of such Additional Equipment will be optional. If we make such Additional Equipment available and you decide to purchase Additional Equipment, you will be required to pay us an additional Royalty and other fees including the Brand Fund Contribution. The Royalty and Brand Fund Contribution for Additional Equipment, if any, will depend on the type of Additional Equipment that you operate and will be the then-current Royalty and Brand Fund Contribution for the Additional Equipment that we charge and set forth in an amendment to this Franchise Agreement which will govern the terms of the Additional Equipment, the current form of which is attached as Attachment D.

You may not transfer any Additional Equipment without our prior written consent. We may approve or reject your request to transfer Additional Equipment in our sole discretion. In addition, we reserve the right to condition our approval of a transfer on: (i) you being in good standing under this Franchise Agreement at the time of transfer, (ii) you paying off any loans or debts related to the Additional Equipment; (iii) Additional Equipment being modified in such a way to protect the System and/or any proprietary interests or trade secrets we have in the Additional Equipment; (iv) that the purchaser of the Additional Equipment be an existing Travelin’ Tom’s franchisee; and/or (v) such additional conditions that we deem reasonable in the circumstances. If we approve of your request to transfer any Additional Equipment, then in addition to any conditions to transfer that we impose, you agree to pay us a transfer fee of \$1,000 per piece of Additional Equipment that you transfer. You will be required to enter into an amendment to this Franchise Agreement governing the terms of the Additional Equipment that you purchase.

### **2.8. TRAINING AND ASSISTANCE.CONFERENCES**

#### **4.J — INITIAL TRAINING.**

#### **8.1 Initial Training Program**

You are required to complete our initial training program at the times and places we designate (“Initial Training”). ~~Initial Training shall consist of a minimum of two and a maximum of four calendar days.~~ The Managing Owner and, if applicable, Designated Manager ~~(see Section 9F)~~ must attend and complete Initial Training to our satisfaction prior to the Travelin’ Tom’s Coffee Franchise Franchised Business opening for business (“Initial Training Deadline”). If you have purchased an existing Travelin’ Tom’s Coffee Franchisefranchised business pursuant to this Franchise Agreement, the Initial Training Deadline will be the Effective Date.-

—We will provide Initial Training at no cost for one attendee. Additional persons may attend Initial Training ~~at and will pay~~ our then-current training fees.- We will pay for hotel and airfare for one attendee to attend the Initial Training ~~(or reimburse one attendee’s hotel and airfare if you are in a fee deferral state).~~, unless the Travelin’ Tom’s FranchiseFranchised Business is being acquired as the result of a transfer. You are responsible for all other costs of attendance, including any and all travel and/or living expenses which you or any other attendees incur.- We reserve the right to charge a fee for providing training and may require you to reimburse us for our associated costs and expenses. Any new Managing Owner or Designated Manager must also complete ~~Initial Training to our satisfaction~~the training required for all new

managers before assuming responsibility for the management of your Travelin' Tom's Franchised Business.- If any of your attendees are unable to complete Initial Training to our satisfaction, we may terminate this Franchise Agreement without refunding your Initial Franchise Fee.- If you own multiple Franchised Businesses, we will provide the Initial Training only for the first Franchised Business that you open.

We reserve the right to vary the length and content of the Initial Training as we deem appropriate in our sole discretion based on the experience of the attendee. We shall determine the scheduling, exact duration, contents and manner of the Initial Training in our discretion and may delay your attendance until a suitable time near the grand opening date for your Franchised Business in our discretion.

## **8.2 Additional Training**

We may offer periodic refresher training courses or develop additional training courses. Attendance at these training programs may be optional or mandatory. You may be required to pay our then-current fee for this training as specified in our Brand Manual.

## **8.3 Requested Training**

Upon your written request, we may provide additional assistance or training to you at a mutually convenient time. You may be required to pay the then-current fee for this training as specified in our Brand Manual.

## **8.4 Remedial Training**

If we determine, in our sole discretion, that you are not operating your Franchised Business in compliance with this Franchise Agreement and/or the Brand Manual, we may require that you, your employees and other designees attend remedial training relevant to your operational deficiencies. You must pay us the then-current training fee as specified in our Brand Manual.

## **8.5 Conventions**

We may hold periodic national or regional conferences to discuss various business issues and operational and general business concerns affecting Travelin' Tom's franchisees. Attendance at these conferences may be mandatory or optional. You are responsible for paying our then-current conference fee for any conferences that attend.

## **8.6 Training Expenses**

You are solely responsible for all expenses and costs that your trainees incur for all trainings and conferences under this Section, including wages, travel, lodging, food and living expenses. You also agree to reimburse us for all expenses and costs we incur to travel to your Franchised Business under this Section, including travel, food, lodging and living expenses.



## 9. OTHER ASSISTANCE

### 4.K — Brand Manual ~~ONGOING TRAINING.~~

~~Your previously trained and experienced employees and any newly hired employees must satisfactorily complete any required training courses and continuing education courses we periodically provide, or designate a third party to provide, at your cost at the times and locations we designate. You may also request that we provide you or your employees with additional training. If we agree to provide additional training, we may charge a tuition fee for these courses. You agree to pay all travel and living costs of your attendees. If we agree to provide additional training at your Travelin' Tom's Business, you agree to pay us for all travel and living costs our trainers incur in traveling to your Travelin' Tom's Business. You may attend, at your expense, all annual franchise conventions we may hold or sponsor and all meetings related to new products or services, new operational procedures or programs, training, management, sales or sales promotion, or similar topics. You understand and agree that any specific ongoing training or advice we provide does not create an obligation (whether by course of dealing or otherwise) to continue to provide such specific training or advice, all of which we may discontinue and modify from time to time.~~

### 4.L — BRAND MANUAL.

**9.1 ~~We will loan you or provide you with access on our website to one copy of our proprietary and confidential operations manual ("Brand Manual"), which may include audio, video, websites, software, other electronic media, and/or written materials. The Brand Manual contains mandatory and suggested specifications, standards, operating procedures, and rules we periodically prescribe for operating a Travelin' Tom's Business and information on your other obligations under this Franchise Agreement.~~**

We will lend you our confidential Brand Manual (the "Brand Manual") in text or electronic form for the Term of this Franchise Agreement. The Brand Manual will help you establish and operate your Franchised Business in accordance with the System. The information in the Brand Manual is confidential and proprietary and may not be disclosed to third parties without our prior written approval. You agree to keep your copy of the Brand Manual current and in a secure location. The Brand Manual may be updated and modified throughout the Term, both formally through amendments to the Brand Manual and informally through email or other written materials we provide to you. You acknowledge that your compliance with the Brand Manual is vitally important to us and other System franchisees and because it is necessary to protect our reputation and the goodwill of the Marks, the Patent and to maintain the uniform quality of operation. However, while the the System.

You agree to establish and operate your Franchised Business strictly in accordance with the Brand Manual. The Brand Manual may contain, among other things: (i) a description ~~Brand Manual~~ is designed to protect our reputation and the goodwill of the Marks, it is not designed to control the day-to-day operation of the Travelin' Tom's Business. We may modify the Brand Manual periodically authorized products and services you may offer at your Franchised Business; (ii) mandatory and suggested specifications, operating procedures, and quality standards for goods, products, services, that you use or offer at your Franchised Business; (iii) policies and procedures we prescribe from time to time for our franchisees; (iv) mandatory reporting and insurance requirements; (v) policies and procedures pertaining to reflect changes in System Standards any gift card program we establish; and (vi) a written list of furniture, fixtures, equipment, products and services (or specifications for such items) you must purchase for the development and operation of your Franchised Business and a list of any designated or approved suppliers for such items. The Brand Manual establishes and protects our brand standards and the uniformity and quality of the

products and services offered by our franchisees. We can modify the Brand Manual at any time. The modifications will become binding as soon as we send you notice of the modification. All mandatory provisions in the Brand Manual (whether they are included now or in the future) are binding on you.

~~You agree to keep your copy of the Brand Manual current and in a secure location. If there is a dispute over its contents, our master copy of the Brand Manual shall control. You agree the Brand Manual's contents are confidential and that you will not disclose the Brand Manual to any person other than Travelin' Tom's Coffee Franchise employees who must know its contents. You will require anyone who may have access to the Brand Manual to sign a confidentiality agreement (the current form of which is attached to the Franchise Disclosure Document in Exhibit H). You may not copy, duplicate, record, or otherwise reproduce any part of the Brand Manual. If your copy of the Brand Manual is lost, destroyed, or significantly damaged, you agree to obtain a replacement copy at our then applicable charge.~~

In addition, if you lose, give away, make unauthorized copies, fail to return or otherwise misappropriate, all or some of the Brand Manual, you will be required to pay us liquidated damages to offset the damages we will incur as a result of this misappropriation. These liquidated damages are determined by taking our total revenue from our previous fiscal year, multiplied by the fraction which results from taking one divided by the current number of Travelin' Tom's Coffee franchisees as of the date of the misappropriation, except that this fee will not, under any circumstances, be less than \$30,000.

~~At our option, we may post some or all of the Brand Manual on a restricted website or extranet to which you will have access. If we do so, you agree to monitor and access the website or extranet for any updates to the Brand Manual or System Standardsstandards. Any passwords or other digital identifications necessary to access the Brand Manual on a website or extranet will be deemed part of Confidential Information (defined in Section 7 below).~~

#### ~~4.M — GENERAL GUIDANCE.~~

~~Upon reasonable request, we will advise you from time to time regarding the Travelin' Tom's Coffee Franchise operation based on your reports or our inspections and will guide you with respect to: (1) standards, specifications, operating procedures, and methods that Travelin' Tom's Coffee Franchises use; (2) purchasing required and authorized operating assets and other items and arranging for their distribution to you from us or the suppliers; (3) advertising and marketing materials and programs; (4) employee training; and (5) administrative, bookkeeping, accounting, and inventory control procedures. We will guide you in our confidential operations manual Brand Manual; in bulletins or other written materials; by electronic media; by telephone consultation; and/or at our office or the Travelin' Tom's Coffee Franchise. Our Brand Manual will also contain our Travelin' Tom's Coffee "Success Guide". We may provide you additional assistance upon your request, in our discretion. If we provide such assistance, you will be required to pay our then current fees.~~

#### ~~4.N — DELEGATION OF PERFORMANCE.~~

~~You agree we have the right to delegate to third party designees, whether these designees are our agents or independent contractors with whom we have contracted (1) the performance of any portion or all of our obligations under this Franchise Agreement, and (2) any right that we have under this Franchise Agreement. If we do so, such third party designees will be obligated to perform the delegated functions for you in compliance with this Franchise Agreement.~~

#### ~~4.O — STAFFING.~~

~~You must hire and supervise efficient, competent, and courteous persons as your employees for the operation of your Travelin' Tom's Coffee Franchise. You must require all your employees to work in clean uniforms approved by us, but furnished at your cost or the employees' cost as you may determine. You~~



~~understand and acknowledge it is your responsibility to hire and supervise a satisfactory number of employees in order to efficiently operate the Travelin' Tom's Business and meet your obligations under this Franchise Agreement. You alone are responsible for all employment decisions and functions of your Travelin' Tom's Business, including, without limitation, those related to hiring, firing, training, establishing remuneration, compliance with wage and hour requirements, personnel policies, benefits, recordkeeping, supervision, and discipline of employees, regardless of whether you have received advice from us on these subjects or not. You will have sole authority and control over the day-to-day operations of the Travelin' Tom's Business and its employees. We will have no duty or obligation to direct your employees or oversee your employment policies or practices, and we will have no liability for any action or settlement related to hiring, firing, training, establishing remuneration, compliance with wage and hour requirements, personnel policies, benefits, recordkeeping, supervision, and discipline of employees and you agree to indemnify us for any such liabilities we incur. You agree that any direction you receive from us regarding employment policies should be considered as examples, and that you are responsible for establishing and implementing your own policies, and that you understand that you should do so in consultation with local legal counsel well versed in employment law. Your employees hired working for you will be your employees alone and will not, for any purpose, be deemed our employees or subject to our control, including with respect to any mandated or other insurance coverage, tax, or contributions, or requirements pertaining to withholdings, levied or fixed by any city, state, or federal governmental agency. You agree to inform each of your employees that you alone are the employer, and that we are not. You and we will file our own tax, regulatory, and payroll reports, and be responsible for all employee benefits and workers compensation payments with respect to our respective employees and operations, and we will save and indemnify one another of and from any liability of any nature whatsoever by virtue thereof.~~

## **~~5. — INTELLECTUAL PROPERTY.~~**

### **~~5.A — OWNERSHIP AND GOODWILL OF MARKS.~~**

~~Your right to use the Marks is derived only from this Franchise Agreement and limited to your operating the Travelin' Tom's Coffee Franchise according to this Franchise Agreement and all System Standards we prescribe during its term. Your unauthorized use of the Marks is a breach of this Franchise Agreement and infringes our rights in the Marks. You acknowledge and agree that any unauthorized use of the Marks will cause us irreparable harm for which there is no adequate remedy at law and will entitle us to injunctive relief. You acknowledge and agree your use of the Marks and any goodwill established by that use are exclusively for our benefit and this Franchise Agreement confers no goodwill or other interests in the Marks upon you (other than the right to operate the Travelin' Tom's Coffee Franchise under this Franchise Agreement). All provisions of this Franchise Agreement relating to the Marks apply to any additional proprietary trade and service marks we authorize you to use. You may not at any time during or after this Franchise Agreement's term contest or assist any other person in contesting the validity, or our ownership, of the Marks.~~

### **~~5.B — LIMITATIONS ON YOUR USE OF MARKS.~~**

~~You agree to use the Marks as the Travelin' Tom's Coffee Franchise's sole identification, except you agree to identify yourself as its independent owner and operator in the manner we prescribe. You have no right to sublicense or assign your right to use the Marks. You may not use any Mark (1) as part of any corporate or legal business name, (2) with any prefix, suffix, or other modifying words, terms, designs, or symbols (other than logos we have licensed to you), (3) in selling any unauthorized services or products, or (4) in any other manner we have not expressly authorized in writing. You may not use the BEV or any~~

~~Additional Equipment or our Marks for purposes other than selling coffees, teas, and related products without our express permission, which may be withheld in our sole discretion.~~

~~You may not use any Mark in advertising the transfer, sale, or other disposition of the Travelin' Tom's Coffee Franchise or an ownership interest in you without our prior written consent, which we will not unreasonably withhold. You agree to display the Marks prominently as we prescribe on the BEV and any Additional Equipment and on forms, advertising, supplies, and other materials we designate. You agree to give the notices of trade and service mark registrations we specify and to obtain any fictitious or assumed name registrations required under applicable law.~~

#### ~~5.C — NOTIFICATION OF INFRINGEMENTS AND CLAIMS.~~

~~You agree to notify us immediately of any apparent infringement or challenge to your use of any Mark, or of any person's claim of any rights in any Mark, and not to communicate with any person other than us, our attorneys, and your attorneys, regarding any infringement, challenge, or claim. Upon receipt of timely notice of action, claim, or demand against you related to any Mark, we shall have the sole right, but not the duty, to defend any such action. We may take the action we deem appropriate (including no action) and exclusively control any litigation, U.S. Patent and Trademark Office proceeding, or other administrative proceeding arising from any infringement, challenge, or claim or otherwise concerning any Mark. If we, in our sole discretion, determine you have used the Marks under this Franchise Agreement, we will pay for such defense, including the cost of any judgment or settlement. In any defense or prosecution of any litigation related to any Mark, you shall cooperate with us. You agree to sign any documents and take any other reasonable action that, in the opinion of our attorneys, are necessary or advisable to protect and maintain our interests in any litigation or Patent and Trademark Office or other proceeding or otherwise to protect and maintain our interests in the Marks. At our option, you will join in any action, and, so long as we determine that your use of the Marks was in compliance with this Franchise Agreement, we shall reimburse you for any costs that you incur in joining the action. Any recovery will first go towards reimbursing us for any expenses that we incurred and the remainder, if any will be split equally between us.~~

#### ~~5.D — DISCONTINUANCE OF USE OF MARKS.~~

~~If it becomes advisable at any time for us and/or you to modify or discontinue using any Mark and/or to use one or more additional or substitute trade or service marks, you agree to comply with our directions within a reasonable time after receiving notice. We will not reimburse you for your direct expenses of changing Travelin' Tom's Coffee Franchise signs, for any loss of revenue due to any modified or discontinued Mark, or for your expenses of promoting a modified or substitute trademark or service mark.~~

~~Our rights in this Section 6 apply to any and all of the Marks (and any portion of any Mark) we authorize you to use in this Franchise Agreement. We may exercise these rights at any time and for any reason, business or otherwise, in our sole discretion. You acknowledge both our right to take this action and your obligation to comply with our directions.~~

#### 5.E — COPYRIGHTED MATERIALS.

You acknowledge and agree that:

- (1) — ~~All right, title, and interest in and to all materials, including but not limited to, all artwork and designs, created by us, and used with the Marks or in association with the Travelin' Tom's Coffee Franchise ("**Copyrighted Materials**") is our property.~~
- (2) — ~~You shall not dispute, contest, or challenge, directly or indirectly, the validity or enforceability of the Copyrighted Materials or our ownership of the Copyrighted Materials, nor counsel, procure, or assist anyone else to do the same, nor will you take any action inconsistent with our ownership of the Copyrighted Materials, nor will you represent that you has any right, title, or interest in the Copyrighted Materials other than those expressly granted by this Franchise Agreement.~~
- (3) — ~~We may, in our sole and absolute discretion, apply to register or register any copyrights or patents with respect to the services and products associated with the System and the Copyrighted Materials. Our failure to obtain or maintain in effect any such application or registration is not a breach of this Franchise Agreement. You shall not, before or after termination or expiration of the Franchise Agreement, register or apply to register any Copyrighted Materials, anywhere in the world.~~
- (4) — ~~Upon our request, you shall cooperate fully, both before and after termination or expiration of this Franchise Agreement and at our expense, in confirming, perfecting, preserving, and enforcing our rights in the Copyrighted Materials, including but not limited to, executing and delivering us such documents as we reasonably request for any such purpose, including but not limited to, assignments, powers of attorney, and copies of commercial documents showing sale and advertising of the services and products associated with the System. You hereby irrevocably appoint us as your attorney in fact for the purpose of executing such documents.~~
- (5) — ~~We make no representation or warranty, express or implied, as to the use, exclusive ownership, validity, or enforceability of the copyrighted materials.~~
- (6) — ~~You acknowledge and authorize us to use your likeness in a photograph in any and all of our publications, including printed and digital publications and on websites. You agree and understand that any photograph using your likeness will become our property and will not be returned. You agree and irrevocably authorize us to edit, alter, copy, exhibit, publish, or distribute any photograph of you for any lawful purpose. You agree and waive any rights to royalties or any other compensation related to our use of any photograph of you. You agree to hold harmless and forever discharge us from all claims, demands, and causes of action which you may have in connection with this authorization.~~

#### 5.F — OWNERSHIP AND GOODWILL OF THE PATENT.

~~Your right to use the Patent is derived only from this Franchise Agreement and limited to your operating the Travelin' Tom's Coffee Franchise according to this Franchise Agreement and all System Standards we prescribe during its term. Your unauthorized use of the Patent is a breach of this Franchise Agreement and infringes our rights in the Patent. You acknowledge and agree that any unauthorized use of the Patent will cause us irreparable harm for which there is no adequate remedy at law and will entitle us to injunctive relief. You acknowledge and agree that your use of the Patent and any goodwill established~~

by that use are exclusively for our benefit and this Franchise Agreement does not confer any goodwill or other interests in the Patent upon you (other than the right to operate the Travelin' Tom's Coffee Franchise under this Franchise Agreement). All provisions of this Franchise Agreement relating to the Patent apply to any additional patents we authorize you to use. You may not at any time during or after this Franchise Agreement's term contest or assist any other person in contesting the validity, or our ownership, of the Patent.

#### 5.G — NOTIFICATION OF INFRINGEMENTS AND CLAIMS.

You agree to notify us immediately of any apparent infringement or challenge to your use of any Patent, or of any person's claim of any rights in any Patent, and not to communicate with any person other than us, our attorneys, and your attorneys, regarding any infringement, challenge, or claim. We may take the action we deem appropriate (including no action) and control exclusively any litigation, U.S. Patent and Trademark Office proceeding, or other administrative proceeding arising from any infringement, challenge, or claim or otherwise concerning any Patent. You agree to sign any documents and take any other reasonable action that, in the opinion of our attorneys, are necessary or advisable to protect and maintain our interests in any litigation or Patent and Trademark Office or other proceeding or otherwise to protect and maintain our interests in the Patent. We will reimburse you for your costs of taking any action we have directed you to take.

#### 5.H — IMPROVEMENTS.

During the Initial Term, or any Interim Period, any improvements or additions to the System, patents, Copyrighted Materials, recipes, website, or any other documents or information pertaining to or relating to the System or the Travelin' Tom's Coffee Franchise, or any new trade names, trade and service marks, logos, or commercial symbols related to the Travelin' Tom's Coffee Franchise or any advertising and promotional ideas or inventions related to the Travelin' Tom's Coffee Franchise (collectively, the "**Improvements**") that you conceive or develop shall become our property. You agree to assign and do hereby assign to us, all right, title, and interest in and to the Improvements, including the right to grant sublicenses to any such Improvement. You shall fully disclose the Improvements to us, without disclosure of the Improvements to others, and shall obtain our written approval prior to using such Improvements. Any such Improvement may be used by us and all other Travelin' Tom's Coffee franchisees without any obligation to you for royalties or other fees. We may, at our discretion, apply for and own copyrights, patents, trade names, trademarks, and service marks relating to any such Improvement and you shall cooperate with us in securing such rights. We may also consider such Improvements as our property and trade secrets. In return, we shall authorize you to utilize any Improvement that may be developed by other franchisees and is authorized generally for use by other franchisees. All Improvements created by you or any other person or entity retained or employed by you are our property, and we shall be entitled to use and license others to use such Improvements unencumbered by moral rights. If any of the Improvements are copyrightable materials, they shall be works made for hire within the meaning of the United States Copyright Act, and to the extent the Copyrighted Materials are not works made for hire or rights in the Copyrighted Materials do not automatically accrue to us, you irrevocably assign and agree to assign to us, its successors, and assigns, the entire right, title, and interest in perpetuity throughout the world in and to any and all rights, including all copyrights and related rights, in such Copyrighted Materials, which you and the author of such Copyrighted Materials warrant and represent as being created by and wholly original with the author. Where applicable, you agree to obtain any other assignments of rights in the Improvements from another person or entity necessary to ensure our right in the Improvements as required in this Section.

## ~~6. CONFIDENTIAL INFORMATION.~~

### ~~6.A TRAVELIN' TOM'S COFFEE CONFIDENTIAL INFORMATION.~~

~~We possess (and will continue to develop and acquire) certain confidential information, some of which constitutes trade secrets under applicable law (the “**Confidential Information**”), relating to developing and operating the Travelin’ Tom’s Coffee Franchise, including (without limitation):~~

- ~~(1) Protected Territory selection criteria;~~
- ~~(2) training and operations materials and manuals;~~
- ~~(3) methods, formats, specifications, standards, systems, procedures, sales and marketing techniques, knowledge, and experience used in developing and operating the Travelin’ Tom’s Coffee Franchise;~~
- ~~(4) marketing and advertising programs for the Travelin’ Tom’s Coffee Franchise;~~
- ~~(5) knowledge of, specifications for and suppliers of assets and other products and supplies;~~
- ~~(6) any computer software or similar technology proprietary to us or the System, including, without limitation, our proprietary KonaOS operating software, digital passwords and identifications and any source code of, and data, reports, and other printed materials generated by the software or similar technology;~~
- ~~(7) knowledge of the operating results and financial performance of Travelin’ Tom’s Coffee Franchises other than the Travelin’ Tom’s Coffee Franchise; and~~
- ~~(8) all customer data, lists, and other information generated by Travelin’ Tom’s Coffee Franchises.~~

~~Any Confidential Information is our sole property, and you agree to never claim rights to or otherwise challenge our ownership of such Confidential Information. Confidential Information does not include information, knowledge, or know how which you can demonstrate lawfully came to your attention before we provided it to you directly or indirectly; which, when we disclosed it to you, already had lawfully become generally known in the food and beverage industry through publication or communication by others (without violating an obligation to us); or which, after we disclose it to you, lawfully becomes generally known in the food and beverage industry through publication or communication by others (without violating an obligation to us). However, if we include any matter in Confidential Information, anyone who claims it is not Confidential Information must prove that one of the exclusions in this paragraph is fulfilled.~~

~~You, your Owners, and, if applicable, your **Designated Manager** must sign a written agreement, in the form attached to the Franchise Disclosure Document, to maintain confidential our Confidential Information described in Sections 7 and 16, and to abide by the covenants not to compete described in Section 16.~~

### ~~6.B RESTRICTIONS ON CONFIDENTIAL INFORMATION.~~

~~You acknowledge and agree that you will not acquire any interest in Confidential Information other than the right to use it as we specify in operating the Travelin’ Tom’s Coffee Franchise during the term of~~



this Franchise Agreement; that such Confidential Information is proprietary, includes our trade secrets, and is disclosed to you only on the condition that you agree; and that you:

- (1) — will not use Confidential Information in any other business or capacity;
- (2) — will keep each item deemed part of Confidential Information absolutely confidential, both during this Franchise Agreement's term and then thereafter for as long as the item is not generally known in the food and beverage industry, except for disclosure of Confidential Information: (i) made in confidence to a government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law; (ii) made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal; (iii) made in cases of suit for retaliation based on the reporting of a suspected violation of law, disclosure of Confidential Information to an attorney and for use of the Confidential Information in such court proceeding, so long as any document containing the Confidential Information is filed under seal and Confidential Information is not otherwise disclosed except pursuant to court order;
- (3) — will not make unauthorized copies of any Confidential Information disclosed via electronic medium or in written or other tangible form; and
- (4) — will adopt and implement reasonable procedures to prevent unauthorized use or disclosure of Confidential Information, including, without limitation, restricting its disclosure to Travelin' Tom's Coffee Franchise personnel and others and using confidentiality agreements with those having access to Confidential Information. We have the right to regulate the form of agreements you use and to be a third party beneficiary of those agreements with independent enforcement rights.

## **7. — EXCLUSIVE RELATIONSHIP.**

You acknowledge that we have granted you the Travelin' Tom's Coffee Franchise in consideration of and reliance upon your agreement to deal exclusively with us. You therefore agree that, during this Franchise Agreement's term, neither you, any of your Owners, nor any of your or your Owners' spouses or other immediate family members will:

- (1) — have any direct or indirect controlling or non-controlling interest as an owner — whether of record, beneficially, or otherwise, in a Competitive Business (as defined below), wherever located or operating (except that equity ownership of less than 5% of a Competitive Business whose stock or other forms of ownership interest are publicly traded on a recognized United States stock exchange will not be deemed to violate this subparagraph);
- (2) — perform services as a director, officer, manager, employee, consultant, representative, or agent for a Competitive Business, wherever located or operating;
- (3) — divert or attempt to divert any actual or potential business or customer of the Travelin' Tom's Coffee Franchise to a Competitive Business;
- (4) — loan money to a Competitive Business;
- (5) — interfere with us, our affiliates, or any other Travelin' Tom's Coffee Franchise; or



- ~~(6) — engage in any other activity which may injure the goodwill of the Marks, Patent, and/or the System.~~

~~The term “**Competitive Business**” means (i) any business providing coffee, teas and related products and/or services, or any similar products and/or services that directly compete with coffee, teas and beverage products or (ii) any business granting franchises or licenses to others to operate the type of business specified in subparagraph (i); provided that a franchise operated under a franchise agreement with us or our affiliates shall not be deemed a Competitive Business.~~

~~You agree to obtain similar covenants from the personnel we specify, including officers, directors, managers, and other employees attending our training program or having access to Confidential Information. We have the right to regulate the form of agreement you use and to be a third party beneficiary of that agreement with independent enforcement rights.~~

## ~~8. — SYSTEM STANDARDS.~~

### ~~8.A — CONDITION AND APPEARANCE OF THE TRAVELIN’ TOM’S COFFEE FRANCHISE.~~

~~You agree that:~~

- ~~(1) — you will, at your own cost and expense, purchase, install, maintain, and refurbish the condition and appearance of the Travelin’ Tom’s Coffee Franchise, including the BEV and any Additional Equipment, supplies, and signage, in accordance with System Standards and our specifications and requirements, and consistent with the image of a Travelin’ Tom’s Coffee Franchise as an efficiently operated business offering high quality services and products and observing the highest standards of cleanliness, sanitation, efficient, courteous service, and pleasant ambiance, and in furtherance of these standards will take, without limitation, the following actions during the term of this Franchise Agreement: (a) thorough cleaning, repainting, and redecorating of the interior and exterior of the BEV and any Additional Equipment at intervals we prescribe; (b) interior and exterior repair of the BEV and any Additional Equipment; and (c) repair or replacement of damaged, worn out, or obsolete assets used in the operation of the Travelin’ Tom’s Coffee Franchise;~~
- ~~(2) — you will place or display on the BEV and any Additional Equipment only those signs, emblems, designs, artwork, lettering, logos, and display, as we approve from time to time;~~
- ~~(3) — if at any time, in our reasonable judgment, the general state of repair, appearance, or cleanliness of the BEV and any Additional Equipment of the Travelin’ Tom’s Coffee Franchise or its fixtures, furnishings, equipment, assets, or signs does not meet our standards, we have the right to notify you and specify the action you must take to correct the deficiency.~~
- ~~(4) — at our request, you will periodically improve and modify the BEV and any Additional Equipment to conform to the then current System Standards.~~

### ~~8.B — STANDARDS ON PRODUCTS AND SERVICES OFFERED.~~

~~You agree that: (1) the Travelin’ Tom’s Coffee Franchise will offer the services and products we specify from time to time; (2) the Travelin’ Tom’s Coffee Franchise will offer and sell services and products~~

~~only by means of, and only at, the BEV and any Additional Equipment and/or in the manner we have prescribed; (3) you will not offer for sale, or sell any products or services we have not approved; and (4) you will discontinue selling and offering for sale any products or services we at any time decide (in our sole discretion) to disapprove in writing.~~

#### ~~8.C — CUSTOMER INFORMATION.~~

~~We may contact any customer of any Travelin' Tom's Coffee Franchise at any time for any purpose. Also, if a customer or other patron of the Travelin' Tom's Coffee Franchise who wishes to lodge a complaint contacts us, we reserve the right to address the person's complaint to preserve goodwill and prevent damage to the brand. Our right to address complaints may include refunding money to the complaining person, in which case you must reimburse us for these amounts. We, or our authorized representative, shall have the right, during regular business hours, or at such other times as may be mutually agreed upon by you and us, to inspect all customer lists and documents and records related thereto. All data that you collect, create, provide, or otherwise develop in your Travelin' Tom's Business, including customer information, is and will be owned by us, and we will have the right to use such data in any manner we deem appropriate without compensation to you. Upon reasonable request, you must furnish to us, in whatever format we require, all customer information and records for the Travelin' Tom's Coffee Franchise.~~

#### ~~8.D — APPROVED PRODUCTS, DISTRIBUTORS AND SUPPLIERS.~~

~~We have developed or may develop standards and specifications for types, models, and brands of required assets, fixtures, equipment, signs, and other products, materials, and supplies. We reserve the right from time to time to approve specifications or suppliers and distributors of the above products that meet our reasonable standards and requirements. If we do so, you agree to purchase only such products meeting those specifications, and if we require it, only from distributors and other suppliers we have approved, including ourselves or our affiliates in accordance with the System Standards, including, by way of example only, Kreations flavoring and Travelin' Tom's Coffee branded cups. Any sale or use of unauthorized products, materials, supplies, or other violation of our System Standards by you will result in a notice of violation and the applicable violation fee set forth in Section 9J.~~

~~We may designate ourselves as the approved distributor or supplier, or we may designate a single distributor or supplier for any product, service, equipment, supply, or material, and may approve a supplier or distributor only as to certain products, including your computer system. The designated supplier may be us or an affiliate of ours. You must provide us with any data relating to your Travelin' Tom's Coffee Franchise we may request.~~

~~We may concentrate purchases with one or more suppliers or distributors to obtain lower prices or the best advertising support or services. Approval of a supplier or distributor may be conditioned on requirements relating to product quality, prices, consistency, reliability, financial capability, labor relations, customer relations, frequency of delivery, concentration of purchases, standards of service, including prompt attention to complaints, or other criteria and may be temporary, pending our continued evaluation of the supplier or distributor from time to time. You acknowledge and agree that we and/or our affiliates may derive revenue based on your purchases and leases, including, without limitation, from charging you for services and products we or our affiliates provide to you and from payments made to us or our affiliates by suppliers we designate or approve for some or all of our franchisees.~~



~~If you would like to purchase any items from any unapproved supplier or distributor, you must submit to us a written request for approval of the proposed supplier or distributor or have the proposed supplier or distributor submit its own request. We will use commercially reasonable efforts to notify you within 60 days after receiving all requested information and materials whether you are authorized to purchase or lease the product or service from that supplier or provider. We may charge the cost of evaluating a proposed new vendor, supplier, or product to you, the vendor, or supplier. We have the right to inspect the proposed supplier's or distributor's facilities, and to require product samples from the proposed supplier or distributor to be delivered either directly to us or to any independent, certified laboratory which we designate for testing. We reserve the right to periodically re-inspect the facilities and products of any approved supplier or distributor and to revoke our approval if the supplier or distributor does not continue to meet any of our criteria.~~

#### 8.E — COMPLIANCE WITH LAWS AND GOOD BUSINESS PRACTICES.

~~You must secure and maintain in force all required licenses, permits, and certificates relating to the operation of the Travelin' Tom's Coffee Franchise and must at all times operate the Travelin' Tom's Coffee Franchise in full compliance with all applicable laws, ordinances, and regulations, including, without limitation, government regulations relating to truth in lending, Department of Transportation regulations, safety and sanitation, truth in advertising, occupational hazards, health, laws relating to non-discrimination in hiring and accessibility, worker's compensation, and unemployment insurance. You must withhold and pay all applicable federal and state taxes, social security taxes, and sales and service taxes. The Travelin' Tom's Coffee Franchise must in all dealings with its customers, suppliers, us, and the public adhere to the highest standards of honesty, integrity, fair dealing, and ethical conduct. You agree to refrain from any business or advertising practice which may be injurious to our business and the goodwill associated with the Marks and other Travelin' Tom's Coffee Franchises. You agree to comply with all applicable laws pertaining to the privacy of customer, employee, and transactional information ("**Privacy Laws**"). ~~You also agree to comply with our standards and policies pertaining to Privacy Laws.~~ If there is a conflict between our standards and policies pertaining to Privacy Laws and actual applicable law, you will: (a) comply with the requirements of applicable law; (b) immediately give us written notice of said conflict; and (c) promptly and fully cooperate with us and our counsel in determining the most effective way, if any, to meet our standards and policies pertaining to Privacy Laws within the bounds of applicable law. You agree not to publish, disseminate, implement, revise, or rescind a data privacy policy without our prior written consent as to said policy. You must notify us in writing within five days of the threat of or commencement of any action, suit, or proceeding, and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, which may adversely affect your operation or financial condition or that of the Travelin' Tom's Coffee Franchise and of any notice of violation of any law, ordinance, or regulation relating to the Travelin' Tom's Coffee Franchise.~~

~~If any product dispensed by your Travelin' Tom's Business violates our System Standards or any applicable laws or regulations, or poses a health risk to the public, we may require that you immediately close your Travelin' Tom's Business and not reopen until approved to do so by us and, if applicable, by any governmental entity or agency. In order to protect the public from any risk of harm and to protect the goodwill and reputation of the System, we may seek immediate injunctive relief seeking an order to close your Travelin' Tom's Business if you fail to close your Travelin' Tom's Business upon our request. In the event that injunctive relief is necessary, you shall pay all costs and expenses, including our attorneys' fees and costs incurred. ~~The remedies herein are in addition to and not in substitution for those stated elsewhere in this Franchise Agreement.~~~~

While the Brand Manual is intended to protect our reputation and goodwill of the Marks, you will be responsible for the day-to-day operation of your Franchised Business and the Brand Manual is not designed to control the day-to-day operation of the Franchised Business.

## **9.2 General Guidance**

We will, upon reasonable request, provide advice or guidance regarding your Franchised Business's operation based on reports or inspections or discussions with you. We will provide reasonable marketing consulting, guidance and support throughout the Term we deem appropriate. Any advice will be given during our regular business hours and via written materials, electronic media, telephone or other methods, in our discretion.

We maintain a staff to manage and operate the Travelin' Tom's System and our staff members can change as employees come and go. We cannot guarantee the continued participation by or employment of any of our shareholders, directors, officers, employees or staff.

## **9.3 Website**

We will maintain a website for Franchised Businesses ("System Website") that will include the information about your Franchised Business we deem appropriate. We may modify the content of and/or discontinue the System Website at any time in our sole discretion. We are only required to reference your Franchised Business on our System Website while you are in full compliance with this Franchise Agreement and all System standards. We must approve all content about your Franchised Business. We will own the System Website (including any webpages for your Franchised Business) and domain names. We intend that any franchisee website will be accessed only through this System Website. You must obtain and use at least one Travelin' Tom's Coffee email address from us. You must pay us an initial fee and our then-current fee for each email address you obtain, which is currently due at the same time as your Royalty. We reserve the right to increase this fee upon 30 days' written notice to you. You must maintain at least one unique email address for each "Find a Travelin' Tom's Coffee Mini Website" that you maintain. You must have access to and utilize our approved accounting software and any other software that we require you to use.

## **9.4 Supplier Agreements**

We may, but are not required to, negotiate agreements with suppliers to obtain products or services for our franchisees. If we negotiate an agreement, we may arrange for you to purchase the products directly from the supplier. We may receive rebates from these suppliers based on your purchases. We may also purchase certain items from suppliers in bulk and resell them to you at our cost (including overhead and salaries), plus shipping fees and a reasonable markup, in our sole discretion.

# **10. MANAGEMENT AND STAFFING**

## **10.1 Owner Participation**

If you are an Entity, you must designate an Owner who will be principally responsible for communicating with us about the Franchised Business ("Managing Owner"). If you are an individual, you are the Managing Owner. The Managing Owner must have the authority and responsibility for the day-to-day operations of your Franchised Business and must have at least 51% equity. You acknowledge that a major requirement for the success of your Franchised Business is the active, continuing and substantial

personal involvement and hands-on supervision by your Managing Owner, who must at all times be actively involved in operating the Franchised Business on a full-time basis and provide in-person and supervision, unless we permit you to delegate management functions to a Designated Manager, see below. If you appoint a new Managing Owner, the new Managing Owner, must attend and successfully complete our then-current initial training program.

8.F — ~~Designated Manager~~ MANAGEMENT OF THE TRAVELIN' TOM'S COFFEE FRANCHISE.

10.2

Subject to this Section, the Managing Owner shall directly supervise and participate in the day-to-day operation of the ~~Travelin' Tom's Coffee Franchise~~ Franchised Business during the term of this Franchise Agreement. At your request, we may, but are not obligated to, agree for you to employ a Designated Manager after the first 60 days of operation (other than the Franchisee/Managing Owner) to operate the ~~Travelin' Tom's Coffee Franchise~~ Franchised Business. The term "Designated Manager" means an individual with primary day-to-day responsibility for the ~~Travelin' Tom's Coffee Franchise's~~ Franchised Business' operations, and may be you (if you are an individual) or an Owner, officer, director, or employee of yours (if you are other than an individual). The Designated Manager shall have similar responsibilities as a Managing Owner. You must deliver to us an amended Attachment AB accurately identifying such appointed Designated Manager. The Designated Manager will be obligated to devote his or her full time, best efforts, and constant personal attention to the ~~Travelin' Tom's Coffee Franchise's~~ Franchised Business' operations, and must have full authority in order to comply with this Franchise Agreement. You must not hire any Designated Manager or successor Designated Manager without first receiving our written approval of such Designated Manager's qualifications. Each Designated Manager must attend and complete our Initial Training ~~(as detailed in Section 5 of this Franchise Agreement)~~ and sign a System Protection Agreement, the current form of which is attached to the Franchise Disclosure Document as in Exhibit H. You must forward to us a copy of each such signed agreement. If we determine, in our sole discretion, during or following completion of the Initial Training program, that your Designated Manager (if any) is not qualified to act as designated manager of the ~~Travelin' Tom's Coffee Franchise~~ Franchised Business, then we have the right to require you to choose (and obtain our approval of) a new individual for that position. If you are required to appoint a new Designated Manager, you must do so within 30 days of the termination of the previous Designated Manager.

10.3 Staff

You must determine appropriate staffing levels for your Franchised Business to ensure full compliance with this Franchise Agreement and our System standards. You are solely responsible to hire, train and supervise employees or independent contractors to assist you with the proper operation of the Franchised Business. You must pay all wages, commissions, fringe benefits, worker's compensation premiums and payroll taxes (and other withholdings levied or fixed by any city, state or federal governmental agency, or otherwise required by law) due for your employees or as applicable, for your independent contractors. These employees and independent contractors will be your employees or contractors, not ours. We do not control the day-to-day activities of your employees or independent contractors or the manner in which they perform their assigned tasks. You must inform your employees and independent contractors you are exclusively responsible for supervising their activities and dictating the manner in which they perform their assigned tasks. In this regard, you must use your legal business entity name (not our Marks or a fictitious name) on all employee applications, paystubs, pay checks, employment agreements, consulting agreements, time cards and similar items.

You must hire and supervise efficient, competent, and courteous persons as your employees for the operation of your Travelin' Tom's Coffee Franchise. You must require all your employees to work in clean uniforms approved by us, but furnished at your cost or the employees' cost as you may determine. You understand and acknowledge it is your responsibility to hire and supervise a satisfactory number of employees in order to efficiently operate the Travelin' Tom's Coffee Business and meet your obligations under this Franchise Agreement.

You have sole responsibility and authority for all employment-related decisions, including employee selection and promotion, firing, hours worked, rates of pay and other benefits, work assignments, training and working conditions, compliance with wage and hour requirements, personnel policies, recordkeeping, supervision and discipline. We will not provide you with any advice or guidance on these matters. You must require your employees and independent contractors to review and sign any acknowledgment form we prescribe that explains the nature of the franchise relationship and notifies the employee or independent contractor that you are his or her sole employer. You agree that any direction you receive from us regarding employment/engagement policies should be considered as examples, that you alone are responsible for establishing and implementing your own policies, and that you understand that you should do so in consultation with local legal counsel competent in employment law. Your employees hired working for you will be your employees alone and will not, for any purpose, be deemed our employees or subject to our control, including with respect to any mandated or other insurance coverage, tax, or contributions, or requirements pertaining to withholdings, levied or fixed by any city, state, or federal governmental agency. You agree to inform each of your employees that you alone are the employer, and that we are not. You and we will file our own tax, regulatory, and payroll reports, and be responsible for all employee benefits and workers compensation payments with respect to our respective employees and operations, and we will save and indemnify one another of and from any liability of any nature whatsoever by virtue thereof.

#### 8.G — INSURANCE.

~~Franchisee shall procure, maintain, and provide evidence of insurance as follows: (a) workers' compensation insurance in an amount not less than \$500,000 or a higher amount as prescribed by state statute or rule in the state in which your Travelin' Tom's Business is located; (b) comprehensive business automobile insurance, including physical damage for the BEV, in an amount of \$161,450 or greater, except that an appropriate deductible clause (maximum of \$5,000 deductible) will be permitted, also including any ancillary equipment and any other property used in the operation of the Travelin' Tom's Business; (c) comprehensive general liability insurance and product liability insurance coverage in such amounts and upon such terms as may from time to time be customary for a mobile food business in your Protected Territory, but not less than \$1,000,000, insuring both you and us against all claims, suits, obligations, liabilities, and damage, including attorney fees, based upon or arising out of actual or alleged personal injuries or property damage relating to the use or condition of the BEV or Additional Equipment; (d) automobile (truck) vehicle liability insurance covering the driving of the BEV and any Additional Equipment in an amount of not less than \$1,000,000; and (e) such additional insurance as we may periodically require.~~

~~All of these policies must contain the minimum coverage we periodically prescribe in our Brand Manual or other written communications to you and must have deductibles not to exceed the amounts we specify. These insurance policies, except for employment liability insurance policies, must name us and any affiliates we designate as additional named insureds.~~

~~If your state requires higher coverages than we prescribe, you will be required to obtain insurance that satisfies your state law requirements. We may periodically increase the amounts of coverage required under these insurance policies and/or require different or additional insurance coverage (including reasonable excess liability insurance) at any time to reflect inflation, identification of new risks, changes in law or~~



~~standards of liability, higher damage awards, or other relevant changes in circumstances as provided in our Brand Manual, as amended from time to time. These insurance policies must be purchased from an insurance company satisfactory to us and provide for 30 days prior written notice to us of a policy's material modification, cancellation, or expiration. You may purchase this insurance through our captive insurance program, which is offered through our affiliate. Each insurance policy must contain a waiver of all subrogation rights against us, our affiliates, and their successors and assigns. You must routinely furnish us copies of your certificates of insurance or other evidence of your maintaining this insurance coverage and paying premiums. If you fail to maintain any required insurance coverage, we have the right to obtain the coverage on your behalf (which right shall be at our option and in addition to our other rights and remedies in this Franchise Agreement), and you must promptly sign all applications and other forms and instruments required to obtain the insurance and pay to us, within ten days after invoicing, all costs and premiums that we incur, plus a 20% administrative surcharge.~~

#### ~~8.H — PRICING.~~

~~We may, from time to time, make suggestions to you regarding your pricing policies in compliance with applicable laws. We retain the right to establish minimum and maximum prices to be charged by you, subject to applicable laws, but any exercise of that right will be specifically set forth in writing. It is furthermore understood and agreed that any list or schedule of prices furnished to you by us may unless otherwise specifically stated as to the minimum or maximum price be treated as a recommendation only and failure to accept or implement any such suggestion may not in any way affect the relationship between you and us.~~

#### ~~8.I — COMPLIANCE WITH SYSTEM STANDARDS.~~

~~You acknowledge and agree that operating and maintaining the Travelin' Tom's Coffee Franchise according to System Standards is essential to preserve the goodwill of the Marks and all Travelin' Tom's Coffee Franchises. You agree at all times to operate and maintain the Travelin' Tom's Coffee Franchise according to all of our System Standards, as we periodically modify and supplement them, even if you believe that a System Standard, as originally issued or subsequently modified, is not in the System's or your best interests, and those modifications may require you to invest additional capital in the Travelin' Tom's Business and/or incur higher operating expenses. Although we retain the right to establish and periodically modify System Standards you have agreed to maintain, you retain the right to and responsibility for the day-to-day management and operation of the Travelin' Tom's Coffee Franchise and implementing and maintaining System Standards at the Travelin' Tom's Coffee Franchise.~~

~~As examples, and without limitation, System Standards may regulate any one or more of the following, in addition to the items described in Sections 9A through 9I above:~~

- ~~(1) — amounts and types of equipment and inventory requirements for products and supplies so the Travelin' Tom's Coffee Franchise may operate at full capacity;~~
- ~~(2) — terms and conditions of the sale and delivery of, and terms and methods of payment for, services and products you obtain from us and affiliated and unaffiliated suppliers; and our affiliates' right not to sell you any products or to provide services, or to do so only on a "cash on delivery" or other basis, if you are in default under any agreement with us;~~
- ~~(3) — sales, marketing, advertising, and promotional programs and materials and media used in these programs;~~

- (4) ~~use and display of the Marks for the Travelin' Tom's Business and on labels, forms, paper, products, and other supplies;~~
- (5) ~~identifying the Travelin' Tom's Coffee Franchise personnel; and employee qualifications, training, dress, and appearance (although you have sole responsibility and authority concerning employee selection and promotion, hours worked, rates of pay, and other benefits, work assigned, and working conditions);~~
- (6) ~~days and hours of operation;~~
- (7) ~~participation in market research and testing and product and service development programs and participation in, and dues assessed for, advisory councils;~~
- (8) ~~accepting all payment methods and compliance programs and systems relating to the same, and compliance with then current Payment Card Industry Data Security Standards or other standards we may reasonably specify;~~
- (9) ~~bookkeeping, accounting, data processing, and recordkeeping systems and forms; formats, content, and frequency of reports to us of sales, revenue, financial performance, and condition; and giving us copies of tax returns and other operating and financial information concerning the Travelin' Tom's Coffee Franchise; and~~
- (10) ~~any other aspects of operating and maintaining the Travelin' Tom's Coffee Franchise we determine to be useful to preserve or enhance the efficient operation, image, or goodwill of the Marks and Patent and Travelin' Tom's Coffee Franchise.~~

You agree that System Standards we prescribe in the Brand Manual, or otherwise communicate to you in writing or another tangible form (for example, via a System extranet or website), are part of this Franchise Agreement as if fully set forth within its text. All references to this Franchise Agreement include all System Standards as periodically modified.

#### 8.J MODIFICATION OF SYSTEM STANDARDS.

We periodically may modify System Standards, and these modifications may obligate you to invest additional capital in the Travelin' Tom's Coffee Franchise and/or incur higher operating costs. You agree to implement any changes in System Standards within the time we request, whether they involve refurbishing or remodeling the BEV and any Additional Equipment or any other aspect of the Travelin' Tom's Coffee Franchise, buying new equipment and/or assets, adding new services and products, adding personnel, or otherwise modifying your operations, as if they were part of this Franchise Agreement as of the Effective Date.

Because complete and detailed uniformity under many varying conditions may not be possible or practical, you acknowledge that we specifically reserve the right and privilege, as we consider best, in our sole discretion, to modify System Standards for any franchise owner based upon circumstances we consider important to promote that franchise owner's, or the System's, successful operation. We may choose not to authorize similar variations or accommodations to you or other franchisees and are not required to do so.

If you fail to follow any of the System Standards, we may send you a notice of violation and charge you a fee of \$1,000 for the first violation and \$5,000 for the second and each additional violation. If you fail to comply with the System Standard in the notice of violation within 30 days of the date of our notice,



you will be required to pay us an additional \$5,000. These fees are in addition to any and all remedies that we have available under this Franchise Agreement, including but not limited to termination.

#### ~~8.K — MYSTERY SHOPPER PROGRAM.~~

~~To ensure uniformity and compliance with the System Standards, we may require you to conduct a self shop by sending photos of your BEV and any Additional Equipment. In addition, we and our designated agents and representatives (including mystery shoppers) may at all times and without prior notice to you: (i) inspect the BEV and any Additional Equipment; (ii) photograph the BEV and any Additional Equipment and observe and video the BEV and Additional Equipment's operation for consecutive or intermittent periods as we desire; (iii) remove or obtain samples of any products and supplies; and (iv) interview and interact with the Travelin' Tom's Coffee Franchise's managers and customers. You agree to cooperate with us and our agents and representatives in any such activities. You agree to present to your customers the evaluation forms we periodically prescribe and to participate and/or request your customers to participate in any surveys performed by or for us. If the results of any mystery shopper are unsatisfactory, you must pay us a fee of \$1,000 to cover our travel and expenses and you will also be subject to non-compliance fees set forth in Section 9J.~~

### ~~9. — MARKETING.~~

#### **3.11. BRAND FUND CONTRIBUTIONS**

~~Recognizing the value of advertising and marketing to the goodwill and public image of the Travelin' Tom's Coffee Franchise, we have established a national advertising and marketing fund (the "**Brand Fund**") for the advertising, marketing, and public relations programs and materials we deem appropriate. You agree to pay \$1,000 for each franchise agreement you have entered into with us per year to the Brand Fund ("**Brand Fund Contribution**"). **Brand Fund Contributions are due at the same time as your Royalty or at such other date we choose, as may be more fully set forth in the Brand Manual. We reserve the right to adjust your Brand Fund Contributions annually by up to 10% in our sole discretion. The Ad Council (see Section 10.C, below) may increase your Brand Fund Contributions at any time upon 75% approval from the Ad Council's members.**~~

#### ~~9.A — USE OF ADVERTISING AND BRAND FUNDS.~~

~~(1) — The following provisions apply to the Brand Fund:~~

~~We will direct all programs that the Brand Fund finances, with sole control over the creative. The Brand Fund is used to promote public awareness of our brand and to improve our System. You are required to pay the Brand Fund Contribution. The Brand Fund may be administered by us or our affiliate or designees, at our discretion. We may use the Brand Fund for any expenditure that we, in our sole discretion, deem necessary or appropriate to promote or improve the System or the Travelin' Tom's brand. We may incorporate the Brand Fund or operate it through a separate entity whenever we deem appropriate.~~

~~To illustrate, these may include, but are not limited to, the following: (i) developing, maintaining, administering, directing, preparing or reviewing advertising and marketing materials, promotions and programs, including social media management; (ii) public awareness of any of the Marks; (iii) public and consumer relations and publicity; (iv) brand development; (v) research and development of technology, products and services; (vi) website development (including social media) and search engine optimization;~~



(vii) development and implementation of quality control programs and other reputation management functions; (viii) conducting market research; (ix) changes and improvements to the System; (x) the fees and expenses of any advertising agency we engage to assist in producing or conducting advertising or marketing efforts; (xi) the proportionate salary share of our employees that devote time and provide services for advertising, promotion, collection, accounting or administration of the Brand Fund; (xii) preparing and distributing financial accountings of the Brand Fund; (xiii) training tools; and (xiv) our and our affiliates' expenses associated with direct or indirect labor, administrative, overhead, or other expenses incurred in relation to any of these activities.

- (a) ~~— We have sole discretion in determining the content, concepts, materials, and media, endorsements used and their geographic, market, and media, frequency, placement and allocation.~~
- (b) ~~— We will account for, location, and all other matters pertaining to any of the foregoing activities. Any surplus of monies in the Brand Fund may be invested. Any unused funds collected in any calendar year will be applied to the following year's funds, and we reserve the right to contribute or loan additional funds to the Brand Fund separately from our other funds and not use them on any terms we deem reasonable. The Brand Fund for our general operating expenses.~~
- (c) ~~— We do not a trust, and we have anyno fiduciary obligation for administering obligations to you regarding our administration of the Brand Fund. The Brand Fund We may spend in any fiscal year more or less than the total Brand Fund payments in that year, borrow from us or others lend to the Brand Fund (paying reasonable interest) to cover deficits, or invest any surplus funds for future use. We will use all interest earned on Brand Fund payments to pay costs before using the Brand Fund's other assets.~~

~~— We will prepare an annual, unaudited statement of Brand Fund collections and expenses and give you the statement within 45 days upon the receipt of a written request. We may incorporate the Brand Fund or operate each through a separate entity whenever we deem appropriate. The successor entity will have all of the rights and duties specified in this Section 10.~~

- (d) ~~— We have the right, but no obligation, to use collection agents and institute legal proceedings to collect do not ensure that our expenditures from the Brand Fund payments at the Brand Fund's expense. We also may forgive, waive, settle, and compromise all claims by or against in or affecting any geographic area are proportionate or equivalent to the Brand Fund. Except as expressly provided in this Section 10, we assume no direct or indirect liability or obligation to you for collecting amounts due to, maintaining, directing, or administering the Contribution by our franchisees operating in that geographic area or that any of our franchisees benefit directly or in proportion to their Brand Fund.~~

~~We may defer or reduce any Travelin' Tom's Coffee franchisee's required payments to Contribution. We reserve the right to change, merge, re-form or dissolve the Brand Fund in our discretion. We will not use the Brand Fund and for advertising principally for the solicitation for the sale of Franchises, but we reserve the right to include a notation in any advertisement or website indicating "franchises available" or similar phrasing. We may, upon 30 days' prior written notice to you, reduce or suspend Brand Fund payments Contribution and operations for one or more periods of any length and terminate (and, if terminated, or reinstate) the Brand Fund. If we terminate We will spend all amounts before any termination~~



of the Brand Fund, we will distribute all unspent monies to our franchise owners, and to us and our affiliates, in proportion to their, and our, respective Brand Fund payments during the preceding 12 month period.

## **12. FRANCHISEE MARKETING AND ADVERTISING**

- (e) — ~~Standards~~ The Brand Fund may pay for preparing and producing video, audio, and written materials and electronic media; developing, implementing, and maintaining websites that promotes Travelin' Tom's Coffee Franchises and/or related strategies; administering regional and multiregional marketing and advertising programs, including, without limitation, purchasing trade journal, direct mail, and other media advertising and using advertising, promotion, and marketing agencies and other advisors to provide assistance; and supporting public relations, market research, and other advertising, promotion, and marketing activities.

### **12.1 The Brand Fund periodically will give you samples of advertising, marketing, and promotional formats**

All advertisements and promotions you create or use must be completely factual and conform to the highest standards of ethical advertising and comply with all federal, state and local laws, rules and regulations and our standards and requirements in the Brand Manual. You must ensure that your advertisements and promotional materials do not infringe upon the intellectual property or legal rights of others. You may not advertise in any media whose primary circulation is outside of the Territory without our permission unless the advertisement is part of a cooperative advertising program.

### **12.2 Promotional Programs**

- (f) — ~~We may periodically create advertising and sales promotion programs and materials at no cost.~~
- (g) — ~~We may use the Brand Fund to pay the reasonable salaries and benefits of personnel who manage and administer the Brand Fund, the Brand Fund's other administrative costs, travel expenses of personnel while they are on Brand Fund business, meeting costs, overhead relating to Brand Fund business, and other expenses we incur in activities reasonably related to administering or directing the Brand Fund and its programs, including, without limitation, conducting market research, public relations, preparing advertising, promotion, and marketing materials, and collecting and accounting for Brand Fund payments.~~
- (h) — ~~We intend~~enhance the Brand Fund to maximize recognition of the Marks and ~~patronage~~collective success of Travelin' Tom's Coffee Franchises. Although we will try to use the Brand Fund to develop advertising and marketing materials and programs, and to place advertising and marketing, that will benefit all Travelin' Tom's Coffee Franchise, we cannot ensure that Brand Fund expenditures in or affecting any geographic area are proportionate or equivalent to Brand Fund payments by contributors operating in that geographic area or that any contributor benefits directly or in proportion to its Brand Fund payment from the development of advertising and marketing materials or the placement of advertising and marketing.

- (i) ~~You understand and acknowledge that your Travelin' Tom's Coffee Franchise may not benefit directly or in proportion to its payment to the Brand Fund from the development and placement of advertising and development of marketing materials.~~

#### ~~9.B — AD COUNCIL.~~

~~We reserve the right to form an advisory board ("Ad Council") for the purpose of jointly advertising and promoting Travelin' Tom's Coffee Franchises. The Ad Council will determine the type of advertising we will use. Members of the Ad Council will prepare governing documents subject to the terms of this Franchise Agreement, the Brand Manual, and our consent. We will choose the members of the Ad Council in our sole discretion from our all Travelin' Tom's franchisees inoperating under the System. In order to be eligible for selection into the Ad Council, you must be in good standing, operate multiple Travelin' Tom's Coffee franchises, and be actively involved in the betterment of the Franchise System. If we appoint you to the Ad Council, you agree to join, participate in, and actively support the Ad Council. Your Brand Fund Contributions may be increased or decreased at any time upon super majority (75%) approval of the Ad Council, upon 30 days' notice to you. We have the sole right, in our discretion, to form, change, or dissolve the Ad Council. We will determine the number of members of the Ad Council in our sole discretion and provide you with a copy of the Ad Council's governing documents upon your written request.~~

#### ~~9.C — LOCAL ADVERTISING.~~

~~Currently, you are not required to market on a local basis as an individual Travelin' Tom's Business and are not required to spend a minimum amount on local marketing and promotion in your Protected Territory. You are currently not required to participate in a local or regional advertising cooperative. You agree, at your sole cost and expense, to issue and offer such rebates, giveaways, and other promotions in accordance with advertising programs established by us, and further agree to honor the rebates, giveaways, and other promotions issued by other Travelin' Tom's Coffee franchisees under any such program, so long as such compliance does not contravene any applicable law, rule, or regulation. You will not create or issue any gift cards/certificates and will only sell gift cards/certificates that have been issued or sponsored by us and which are accepted at all Travelin' Tom's Businesses, and you will not issue coupons or discounts of any type except as approved by us. We may conduct market research and testing to determine consumer trends and the marketability of new food products and services.~~

~~You agree to cooperate by participating in our market research programs, test marketing new food products and services in the Travelin' Tom's Business and providing us with timely reports and other relevant information regarding such market research. You must conduct and participate in promotional campaigns (the "Promotions") which may from time to time be required, and you must conduct and participate in those Promotions in accordance with our policies and procedures. This may include requiring you to offer free products to customers on certain days or providing coupons (not to exceed \$500 per year unless authorized by the Ad Council, if established). The value of Promotions you must offer may be increased at any time upon super-majority (75%) of the Ad Council, if established, and upon 30 days' notice to you, but will not exceed \$1,500 per calendar year. If we require you to conduct and participate in any Promotion, we reserve the right (but we are not required) to use a portion of the Brand Fund to help Travelin' Tom's Coffee Franchisesour franchisees defray a portion of any costs attributable to the Promotions. If we exercise this right, we will use the Brand Fund on a pro rata basis.~~

You agree, at your sole cost and expense, to issue and offer such rebates, giveaways, and other promotions in accordance with advertising programs established by us, and further agree to honor the



rebates, giveaways, and other promotions issued by other Travelin' Tom's Coffee franchisees under any such program, so long as such compliance does not contravene any applicable law, rule, or regulation. You will not create or issue any gift cards/certificates and will only sell gift cards/certificates that have been issued or sponsored by us and which are accepted at all franchised businesses, and you will not issue coupons or discounts of any type except as approved by us.

### **12.3 Marketing Materials**

You must order any sales and marketing material from us, or our designated suppliers (which may be an affiliate), that we require. We may create and make available to you, advertising and other marketing materials. We may charge you for these materials. We may make these materials available over the Internet (in which case you must arrange for printing the materials and paying all printing costs). We may also enter into relationships with third party suppliers who will create the advertising or marketing materials for your purchase.

### **12.4 Approval**

We must approve all advertising and promotional materials ~~that we did not prepare or previously approve (including materials that we prepared or approved; and you modify).~~ before you use them. We will be deemed to have disapproved the materials if we fail to issue our ~~written~~ approval within 30 days after receipt. You may not use any advertising or promotional materials that we have disapproved (including materials that we previously approved and later disapprove). All advertising must be clear, factual, not misleading, and must conform to both the highest standards of ethical advertising and marketing and the advertising and marketing policies we may require from time to time. Before you conduct any advertising or marketing you must send us or our designated agency samples of your proposed materials for review. —If you use any advertising or promotional materials that are not approved by us (including materials that we previously approved and later disapprove) then, in addition to any other remedies under this Franchise Agreement, you will pay us an unauthorized advertising fee of \$1,000 per occurrence.

### **12.5 Grand Opening Advertising**

Although you are encouraged to engage in grand opening advertising, you do not have to spend any minimum amount on grand opening advertising to promote your Franchised Business.

### **12.6 Local Advertising Requirement**

Although you are encouraged to engage in local advertising, you do not have to spend any minimum amount on local advertising to promote your Franchised Business. You agree to participate in our market research programs, test marketing new food products and services at the Franchised Business and providing us with timely reports and other relevant information regarding such market research.

### **12.7 Online Advertising**

You may not maintain a separate website, conduct e-commerce, or otherwise maintain a presence on the Internet in connection with your Franchised Business without our express written permission, which we may revoke at any time, in our sole discretion. Any website we permit you to establish will be subject to all of your marketing and advertising requirements under this Franchise Agreement and the Brand Manual. If you wish to utilize social media or advertise via the Internet or a worldwide web page unless we have authorized you to do so in writing. Any such advertising online, you must follow ~~any~~our online policy that

~~may be contained in our Brand Manual. Our online policy may change as technology and the Internet changes. Under our online policy, we may retain the sole right to market on the Internet. We may require that you utilize our designated supplier for social media marketing services, at your expense. You may not use the Marks in any fundraising campaign, including all use of websites, domain names, search techniques, locators, metatags, advertising, and co-branding arrangements.crowdfunding. We may restrict your use of social media, blogs, and all other online sites where our trademarks are used. We may not allow you to. We restrict your ability to independently market on the Internet, or and we may not allow you to use any domain name, address, locator, link, metatag, or search technique with words or symbols that are similar to the Marks. We intend~~

## **12.8 Advisory Council**

~~We may form, change, merge or dissolve an advisory council (“Council”) at any time, in our sole discretion, to advise us on advertising policies and to promote communications between us and all franchisees. Any such Council will be governed by bylaws that will specify that any franchisee website will be accessedmembers of the Council would consist of both franchisees and franchisor representatives and will specify how members are selected, subject to any changes to such bylaws or structure we deem necessary in our sole discretion. Any Council would serve in an advisory capacity only through our home page. We reserve the right to update these requirements at any time through the Brand Manual. You agree to not participate in any crowdfunding campaigns or similar money-raising programs for your Travelin’ Tom’s Coffee Franchise. Your failure to comply with this Section is a material breach of this Franchise Agreement. You will provide us with content for our Internet marketing, and will sign Internet and intranet usage agreements if requested by us. If we appoint you to the Council, you agree to join, participate in, and actively support the Council. Your Brand Fund Contributions may be increased or decreased at any time upon super-majority (75%) approval of the Council, upon 30 days’ notice to you. We may grant the Council any operation or decision-making powers we deem appropriate.~~

~~In an effort to promote your BEV and Additional Equipment, we reserve the right to develop and implement the use of marketing materials and advertisements which may include audio and/or video content in your BEV and Additional Equipment. This implementation may require you to install additional equipment, including video and audio equipment in your BEV, which you agree to do at your sole cost and expense. We shall have exclusive control over the content of any such marketing materials and advertisements.~~

### **9.D — FRANCHISE SYSTEM WEBSITE.**

~~We have established one or more websites to advertise, market, and promote Travelin’ Tom’s Coffee Franchises and the services and products that Travelin’ Tom’s Coffee franchisees offer and sell (the “**System Website**”). We will reference the Travelin’ Tom’s Coffee Franchise in the manner we determine from time to time. You must give us the information we request from time to time concerning the Travelin’ Tom’s Coffee Franchise to include on the System Website. By providing the information to us, you will be representing to us it is accurate and not misleading and does not infringe any third party’s rights. We will own all intellectual property and other rights in the System Website, all information on it, and all information generated from it (including the domain name or URL, the log of “hits” by visitors, and any personal or business data that visitors supply). We are only required to reference your Travelin’ Tom’s Business on the System Website while you are in full compliance with your Franchise Agreement and all System Standards. If you are in default of any obligation under the Franchise Agreement or System Standards, then we may temporarily remove references to your Travelin’ Tom’s Business from the website until you fully cure the subject default(s).~~

~~For as long as we maintain the System Website, we shall have the right to use the Brand Fund's assets to develop, maintain, and update the System Website. We may periodically update and modify the System Website. You must promptly notify us whenever any information on your listing changes or is not accurate. You acknowledge that we have final approval rights over all information on the System Website. We may periodically implement and modify System Standards relating to the System Website. You may not, without our prior written approval, develop, maintain, or authorize any other website that mentions or describes you or the Travelin' Tom's Coffee Franchise or displays any of the Marks. Nothing in this Section shall limit our right to maintain websites other than the System Website. If you default on any of your obligations under this Franchise Agreement, we may temporarily remove all references to your Travelin' Tom's Coffee Franchise from the System Website until you fully cure all such defaults.~~

## ~~9.E~~ — E-LEAD PROGRAM

### 12.9 If you elect to use our digital marketing service (the “E-Lead Program”), E-Lead Program

We operate a digital marketing service to manage the placement of digital ads (the “E-Lead Program”) that you may elect to use. If you elect to use the E-Lead Program, in addition to the actual costs of the digital advertisements themselves, you agree to pay us an annual administrative fee (the “E-Lead Fee”) of \$250 for E-Lead Lite or \$500 for E-Lead Plus. Your E-Lead Fee shall be paid when you enroll in the E-Lead Program, and shall be paid annually on the anniversary date of your enrollment. The E-Lead Program is currently optional, and you may un-enroll from the E-Lead Program at any time upon 30 days’ written notice to us. Any E-Lead Fees paid to us are non-refundable under any circumstances. We reserve the right to require ~~your enrollment~~ you to enroll in the E-Lead Program in the future, upon 60 days’ written notice to you. We further reserve the right to discontinue the E-Lead Program, increase the fees and costs associated with the E-Lead Program, or otherwise revise the terms and conditions of the E-Lead Program at any time, in our sole discretion.

## ~~10.G~~ — LIMITED TIME OFFER CAMPAIGN

### ~~10.G~~ The limited time offer campaign is Limited Time Offer Campaign

We have a flavor and marketing campaign (“Limited Time Offer Campaign”) currently offered in the Spring, Summer and Fall. ~~Each kit is currently \$150 to \$500. You must participate in each Limited Time Offer Campaign, and includes you must purchase kits that include flavoring and marketing materials. We from us at our then-current pricing which we reserve the right to increase this fee upon 30 days’ written to you. Your will be required to pay us this fee for each kit you purchase if you opt in to our optional limited time offer campaign. We reserve the right to require your participation in a limited time offer campaign upon 60 days’ notice to you.~~

## 13. SYSTEM STANDARDS

### 13.1 Generally

You agree to operate your Franchised Business: (i) in a manner that will promote the goodwill of the Marks; and (ii) in full compliance with our standards and all other terms of this Franchise Agreement and



the Brand Manual. Any required standards exist to protect our interests in the System and the Marks, and not for the purpose of establishing any control or duty to take control over those matters that are reserved to you. The required standards generally will be in the Brand Manual or other written materials and may be periodically modified over the Term. To protect our interests in the System and Marks, we reserve the right to determine if you are meeting a required standard and whether an alternative is suitable to any recommendations or guidelines.

We may, from time to time, make suggestions to you regarding your pricing policies in compliance with applicable laws. We retain the right to establish minimum and maximum prices to be charged by you, subject to applicable laws, but any exercise of that right will be specifically set forth in writing. It is furthermore understood and agreed that any list or schedule of prices furnished to you by us may unless otherwise specifically stated as to the minimum or maximum price be treated as a recommendation only and failure to accept or implement any such suggestion may not in any way affect the relationship between you and us.

### **13.2 Authorized Products and Services**

The products or services offered by the Franchised Business are subject to change and we do not represent that your Franchised Business will always be permitted or required to offer all of the products or services currently offered. You agree to offer all products and services we require from time to time. You may not develop or offer any other products or services at your Franchised Business without our prior written permission. We may, without obligation to do so, add, modify or delete authorized products and services, and you must do the same upon notice from us. You may incur additional expenses to offer new products or services. Our addition, modification or deletion of one or more products or services shall not constitute a termination of this Franchise Agreement. You will not enter into any agreements with any third parties that can process orders for you on your behalf without our express written permission, which we may revoke at any time, in our sole discretion. We may, but are not required to, create Travelin' Tom's proprietary products for sale at your Franchised Business. If we develop any of these products, you agree to maintain a reasonable inventory of these items at all times.

### **13.3 Suppliers and Purchasing**

You agree to purchase or lease all products, supplies, equipment, services, and other items specified in the Brand Manual. If required by the Brand Manual, you agree to purchase or lease certain products and services only from suppliers designated or approved by us (which may include, or be limited exclusively to, us or our affiliates). You acknowledge that our right to specify the suppliers you may use and add or remove suppliers is necessary and desirable so we can control the uniformity and quality of products and services used, sold or distributed in connection with the development and ongoing operation of your Franchised Business, maintain the confidentiality of our trade secrets, obtain discounted prices for our franchisees if we choose to do so, and protect the reputation and goodwill associated with the System and the Marks. If we receive rebates or other financial consideration from these suppliers based upon your purchases or any other of our franchisee's purchases, we have no obligation to pass these amounts on to you or to use them for your benefit. If we do not require you to use a designated source or approved supplier for a particular item, you may purchase the item from any vendor you choose so long as your purchases conform to our System and specifications. We may restrict the sourcing of current and future items. You agree to maintain an adequate inventory of all items in accordance with the Brand Manual.

If you wish to purchase any items or supplies from a supplier we have not approved or wish to offer any new product or service we have not authorized in writing, you must send us a written notice specifying the supplier's name and qualifications or product or service information and provide any additional information



we request. We will approve or reject your request within 30 days after we receive your notice and all additional information (and samples) that we require. If we fail to issue our approval within the 30-day period, it will have the same effect as a rejection to the request. You must reimburse us for all costs and expenses we incur in reviewing a proposed supplier within ten days after invoicing. We may revoke approval of any supplier, product or service in our sole discretion in which case you must stop purchasing from such supplier.

#### **13.4 Equipment Maintenance and Changes**

You agree that our ability to require Travelin' Tom's franchisees to make significant changes to their BEV (and any Additional Equipment) is critical to our ability to administer and change the System and to maintain the Travelin' Tom's brand's image of cleanliness, efficiency and quality. You agree to proactively maintain, modify, repair and upfit your BEV (and any Additional Equipment) over time to meet our standards.

Should we determine that the cleanliness or appearance of your BEV (and any Additional Equipment) fall below our standards, you must promptly address the issue at your sole cost and expense. This includes repairing any damages, updating equipment, and refreshing the BEV's (and any Additional Equipment's) aesthetic to maintain a "like new" condition and to meet our then-current standards and with the Brand Manual.

You acknowledge and agree that your BEV (and any Additional Equipment) will depreciate, damage, wear out and become obsolete over time and that, depending on the age, mileage, condition and features of your BEV (and any Additional Equipment), we may require that you replace, repair, retrofit or upfit these items in accordance with our then-current standards and the Brand Manual over time. We reserve the right to require refurbishment, retrofitting and upfitting of the BEV (and any Additional Equipment) to align with the latest branding and image standards in accordance with our directives and with the Brand Manual. Such refurbishment, retrofitting and upfitting may involve significant changes, replacements, modifications and new equipment, as well as any other updates specified by us. You further agree to purchase a replacement BEV (and any Additional Equipment) whenever these items no longer meet our standards. You must purchase a new BEV (and any Additional Equipment) within 30 days of our notice to you or such other time period that we designate. You must commence all maintenance and remodeling promptly upon receiving our notice and complete it within 60 days, or such other time period that we designate. You are solely responsible for all associated costs and expenses.

If the BEV (and any Additional Equipment) is damaged in an accident, totaled or is otherwise deemed unable to operate by you or by us in our discretion, then you agree to perform all repairs or obtain all a replacement BEV (and any Additional Equipment) at your sole cost and expense within 60 days or such other time period that we designate.

You acknowledge and agree that vehicle repairs and maintenance may occasionally result in unforeseen mechanical issues. In such cases, you will notify us of any issues encountered and provide reasonable opportunity for us to rectify the problem. You further agree that routine maintenance and occasional repairs are necessary for the proper functioning of the BEV (and any Additional Equipment) and agree to bear any associated costs unless such issues arise directly from our gross negligence or willful misconduct.

You acknowledge and agree that your BEV (and any Additional Equipment) and/or your entire Franchised Business may not be operational during the time that maintenance, repairs, upfits, retrofits or replacement occurs under this Section, which could be for a significant period of time. You also acknowledge and agree that replacing your BEV and/or other Additional Equipment may be delayed and is subject to availability. During such time periods, you acknowledge and agree that we are not responsible

or liable to you for any loss of revenue, profits or damages experienced by your Franchised Business. You agree that we shall not be liable for any mechanical issues or damages incurred by you as a result of such repairs, upfits, retrofits or maintenance. You also agree that we will not be responsible for any manufacturing or mechanical issues.

You agree to fully cooperate with us and our affiliates with all obligations under this Section.

### **13.5 Hours of Operation**

You must keep your Franchised Business open for the minimum hours and minimum days of operation as specified in the Brand Manual, which may change over the Term. We may require you to establish specific hours of operation and submit those hours to us for approval.

### **13.6 Customer Issues**

You acknowledge the importance to the System and uniform standards of quality, service and customer satisfaction, and recognize the necessity of opening and operating a Franchised Business in conformity with the System. You agree to manage the Franchised Business in an ethical and honorable manner and ensure that all those working at the Franchised Business provide courteous and professional service to customers. If you receive a customer complaint, you must promptly follow the complaint resolution process we specify to protect the goodwill associated with the Marks. Also, if we are contacted by a customer of your Franchised Business who wishes to lodge a complaint, we reserve the right to address the customer's complaint to preserve goodwill and prevent damage to the Marks. Our right to address complaints may include refunding money to a dissatisfied customer, in which case you must reimburse us for these amounts including the value of any gift card, refund or other value we provide to the customer as part of addressing the issue.

We may contact any customer of your Franchised Business at any time for any purpose. We, or our authorized representative, shall have the right, during regular business hours, or at such other times as may be mutually agreed upon by you and us, to inspect all client lists and documents and records related to the Franchised Business. Upon reasonable request, you must furnish to us in whatever format we require, all client information and records for the Franchised Business, both active and inactive, which shall include, but not be limited to, names, addresses, and telephone numbers of such clients ("Customer List"). You acknowledge and agree that we are the sole owner of the Customer List and that you shall not use the Customer List for any purpose other than for the operation of the Franchised Business or distribute, in any form or manner, the Customer List to any third party without our prior written consent.

### **13.7 Standards Compliance**

You acknowledge the importance of every standard and operating procedures to the reputation and integrity of the System and the goodwill associated with the Marks. If you fail to follow any of the System standards, we may send you a notice of violation and charge you a fee of \$1,000 for your first violation and an additional \$5,000 if you fail to comply with the System standard in the notice of violation within 30 days of the date of our notice. We may charge you a fee of \$5,000 for each additional violation after your first. These fees are in addition to any and all remedies that we have available under this Franchise Agreement, including but not limited to termination.

### **13.8 Payment Vendors and Data Security**



You agree to maintain, at all times, credit card relationships with the credit and debit card issuers or sponsors, check or credit verification services, financial center services, payment providers, merchant service providers, loyalty and gift cards, and electronic fund transfer systems (together, “Payment Vendors”) that we may periodically designate as mandatory. The term “Payment Vendors” includes, among other things, companies that provide services for electronic payment. You agree not to use any Payment Vendor for which we have not given you our prior written approval or as to which we have revoked our earlier approval. We may modify our requirements and designate additional approved or required methods of payment and vendors for processing such payments, and to revoke our approval of any service provider. You agree to comply with the then-current Payment Card Industry Data Security Standards as those standards may be revised and modified by the PCI Security Standards Council, LLC, or any successor organization or standards we may reasonably specify. You agree to implement the enhancements, security requirements and other standards that PCI Security Standards Council, LLC (or its successor) requires of a merchant that accepts payment by credit and/or debit cards or electronic payments.

### **13.9 Gift Cards and Loyalty Programs**

You agree to participate in our gift card and loyalty programs, if any, and agree to make gift cards and loyalty programs available for purchase and redemption at your Franchised Business subject to the policies and procedures in the Brand Manual.

### **13.10 Privacy**

You agree to comply with all applicable international, federal, state and local laws pertaining to the privacy of customer, employee and transactional information (“Privacy Laws”). You agree to research and proactively ensure that your Franchised Business is in compliance with Privacy Laws, which may vary depending on the location of your Franchised Business. You also agree to comply with our standards and policies pertaining to Privacy Laws. You agree to inform us of any conflict between our standards and policies and any local or state Privacy Laws that govern your Franchised Business to ensure that your conduct complies with all those local or state Privacy Laws.

### **13.11 Mystery Shopper**

We may require you to conduct a self-shop by sending us photos of your BEV (and any Additional Equipment). If the results of the self-shop are unsatisfactory, or you do not participate in the self-shop, we may send a third-party mystery shopper to conduct a mystery shop. We also may inspect your BEV (and any Additional Equipment) at any time. You agree to fully cooperate with any such inspection. If the results of any mystery shopper determine that your Franchised Business is in violation of any System standard and we inspect your Franchised Business, we will conduct a mystery shop of your Franchised Business, you must pay us a fee of \$1,000 to cover our travel and expenses. You will also be subject to non-compliance fees set forth in Section 13.7. Alternatively, we may be invoiced by the mystery shopper or quality assurance firm, in which case you must pay your proportional share of the total fee based on number of inspections performed. You agree to pay us this fee within ten days after invoicing.

### **13.12 Remodeling**

You agree to remodel and make all improvements and alterations to your Franchised Business we reasonably require from time to time to reflect our then-current image, appearance specifications. There is no limitation on the cost of any remodeling that we may require.

## **1111 Beverage Entertainment Vehicle**

You must purchase the BEV from us or our affiliate. You will pay the current cost of the BEV in effect at the time of delivery, which may increase from the time of the signing of this Franchise Agreement. You will pay a non-refundable \$5,000 deposit when you sign this Franchise Agreement and pay the entire remaining balance in full when you take delivery of your BEV. The BEV deposit is in addition to the Initial Franchise Fee. If this Franchise Agreement is entered into under an Area Development Agreement, then you may receive a credit towards the BEV and any credit would be based on the terms of your Area Development Agreement with us. BEV payments are non-refundable. You may not utilize any other truck or vehicle, other than the BEV (and any Additional Equipment), in the operation of your Franchised Business, and the BEV (and any Additional Equipment) must only be used for the operation of your Franchised Business and not for any other purpose. You must operate at least one BEV and may operate multiple BEVs in the Territory if we allow you to sign additional franchise agreements with us. Currently, we require that the BEV be upfitted every seven years.

Although all BEVs will follow a consistent theme, the details of design may differ, often based upon local requirements and you agree that your BEV may not be identical to those of other franchisees. If modifications to the BEV are necessary to comply with applicable local laws and/or ordinances, you may be required to pay a fee to us or our affiliate for the costs and expenses in making the necessary modifications to the BEV. You will also be required to purchase an initial inventory of Travelin' Tom's Coffee equipment, uniforms, and supplies from us or our affiliates when you purchase the BEV. These payments are non-refundable.

You must find a location to store the BEV (and any Additional Equipment), which may be at your residence if permitted. You must use our approved supplier for the window tinting, wrapping, and upfitting of your BEV. Any person who drives your BEV must be 18 years of age or older and have a valid driver's license, and each of your BEVs must be properly licensed, registered and insured. 10.H.

### **UNAUTHORIZED ADVERTISING FEE**

~~We Should~~ your BEV (or any Additional Equipment) be subject to a manufacturer's vehicle safety recall, you must ~~approve~~ immediately notify us in writing and perform the required repairs, maintenance, and/or inspections at your sole cost and expense before using your BEV (or any Additional Equipment) in the operation of your Franchised Business. You acknowledge and agree that we are not responsible for any obligations or costs associated with the operation of the BEV (and any Additional Equipment), including any safety recall.

Your BEV must meet our then-current standards that we specify and that are contained in the Brand Manual. You must not use the BEV for any purpose other than the operation of your Franchised Business. You agree to: (i) decorate and wrap your BEV under our then-current System standards, and at our request, periodically update or improve the decoration and wraps of the BEV (any such updates or improvements must be made within 30 days of our delivery of notice to you that such updates or improvements must be made); (ii) maintain the condition of the BEV consistent with the image of a Franchised Business and in accordance with the System standards; (iii) not sell or otherwise transfer the BEV without first removing all of the Marks from the BEV; and (iv) obtain and maintain all appropriate permits, business and contractor licenses and certifications including but not limited to valid driver's licenses for all drivers and current vehicle registrations for the BEV used in the Franchised Business. During the Term, you agree to take the following actions: (A) thoroughly clean, repaint, and redecorate the interior and exterior of the BEV( and any Additional Equipment) at intervals we prescribe; (B) repair the interior and exterior of the BEV (and any Additional Equipment; and (C) at our request, to periodically improve and modify the BEV and any Additional Equipment) to conform to the then-current System standards. You will place or display on the BEV (and any Additional Equipment), only those signs, emblems, designs, artwork, lettering, logos, and

~~display and advertising and promotional materials we did not prepare or previously approve (including materials we prepared or approve from time to time. If at any time in our reasonable judgment, the general state of repair, appearance, or cleanliness of the BEV, (and any Additional Equipment of the Franchised Business) or its fixtures, furnishings, equipment, assets, or signs does not meet our standards, we may notify you and specify the action you must take to correct the deficiency. You agree to fully de-identify any BEV (and any Additional Equipment) you no longer utilize. These corrective actions will be performed at your sole expense.~~

## **14. TECHNOLOGY**

### **14.1 Technology**

~~You must utilize the technology, including software, computer hardware and components, point of sale system, cash register(s), communication equipment, and other related accessories or peripheral equipment (collectively, "Technology") that we require. We may change the Technology you must use for your Franchised Business at any time. You will utilize the Technology with the Franchised Business under our policies and procedures in the Brand Manual. You must pay the Technology Fee for the use of certain technologies used in the operation of your Franchised Business. For other required Technology, you agree at your expense to use any approved and you modify) before you use them. If you use any advertising or promotional materials that are not supplier we require. We may change or add approved by us (including materials that we previously approved and later disapprove) then, in addition to any other remedies under suppliers of this Technology at any time, in our sole discretion. You will, at your expense, purchase and maintain any required communication services, Internet services (including the requirement to maintain a high-speed Internet connection), dedicated telephone and power lines. You acknowledge and agree that changes to Technology are dynamic and not predictable within the Term of this Franchise Agreement, you will pay an. To provide for inevitable but unpredictable changes to technological needs and opportunities, you agree that we may establish, in writing, reasonable new standards for implementing Technology in the System and you agree to comply with those reasonable new standards we establish as if we periodically revised this Section for that purpose. You will keep the Technology in good maintenance and repair, and you will promptly install, at your expense, any additions, changes, modifications or substitutions to Technology, as we may specify periodically. There is no limitation on the frequency and cost of your obligation to maintain, update or upgrade your Technology or its components. You acknowledge that you are solely responsible for protecting your Franchised Business from computer viruses, bugs, failures, data breaches and attacks by hackers and other unauthorized advertising fee of \$1,000 per occurrence to the Brand Fundintruders in the Technology.~~

## **10. —REPORTS.**

~~Upon our request, you must provide to us, at your expense and in a form acceptable to us, timely financial statements as specified by us. You agree to comply with all reporting requirements we prescribe. In order for us to provide the most timely and useful information to the Travelin' Tom's Coffee Franchise, it is essential that you collect certain information as soon as possible after the applicable accounting period closes. You agree to submit, based on the frequency we designate, completed relevant worksheets; payroll changes and current hours worked; bank statements; manual check stubs with invoice copies; and any other documents required to properly record all transactions affecting the Travelin' Tom's Coffee Franchise financial activity. If you fail to submit Travelin' Tom's Coffee Franchise related items when required under this Section, we shall have the right to terminate the Franchise Agreement as provided in Section 15B.~~

You agree to give us, in the manner and format we prescribe from time to time, the following:

- (1) ~~within five days of our request, all profit and loss and source and use of funds statements and a balance sheet for the Travelin' Tom's Coffee Franchise as of the end of the prior calendar month;~~
- (2) ~~by April 15<sup>th</sup> of each year, a copy of the tax return for the Travelin' Tom's Coffee Franchise for the previous calendar year; and~~
- (3) ~~any other data, information, and supporting records reasonably requested by us from time to time, including, without limitation, daily and weekly reports of product sales by category.~~

~~Your Managing Owner must certify and sign each report and financial statement in the manner we prescribe. If we so request, the profit and loss statement and balance sheet shall be certified by certified public accountant at your expense. We may disclose or use the data derived from these reports, your year-end reports, and any other financial statements from the operation of your Travelin' Tom's Coffee Franchise, for any purpose we deem appropriate, in our sole discretion. If we utilize your Travelin' Tom's Coffee Franchise's financial statements for disclosure in our Franchise Disclosure Document, we may be required to disclose identifying information about your Travelin' Tom's Coffee Franchise in such disclosure.~~

~~Subject to applicable law, you agree to preserve and maintain all records in a secure location at the Travelin' Tom's Coffee Franchise for at least three years, including, but not limited to, sales checks, purchase orders, invoices, payroll records, customer lists, check stubs, sales tax records and returns, cash Revenue and disbursement journals, and general ledgers.~~

## ~~11. INSPECTIONS AND AUDITS.~~

### ~~11.A OUR RIGHT TO INSPECT THE TRAVELIN' TOM'S COFFEE FRANCHISE.~~

~~To determine whether your Travelin' Tom's Coffee Franchise is in compliance with this Franchise Agreement and all System Standards, we and our designated agents or representatives may at all times and without prior notice to you: (1) inspect the Travelin' Tom's Coffee Franchise, BEV, and/or any Additional Equipment; (2) photograph the Travelin' Tom's Coffee Franchise, BEV, or any Additional Equipment, and observe and videotape the operation thereof for consecutive or intermittent periods we desire; (3) remove samples of any products and supplies; (4) interview the Travelin' Tom's Coffee Franchise managers, personnel, and customers; (5) inspect and copy any books, records, and documents relating to the Travelin' Tom's Coffee Franchise operation; and (6) access any electronic records related to the Travelin' Tom's Coffee Franchise. You agree to cooperate with us fully under this Section. If we exercise any of these rights, we will not interfere unreasonably with the Travelin' Tom's Coffee Franchise operation. If we conduct an inspection of your Travelin' Tom's Coffee Franchise and determine you are not operating in compliance with this Franchise Agreement or the System Standards, you agree to remedy any issues, violations, or other concerns of ours and you acknowledge and agree that you may be required to temporarily close your Travelin' Tom's Business. In addition, we may require that you attend remedial training that addresses your operational deficiencies and pass our inspection before reopening at your sole cost and expense. Nothing contained herein shall prevent us from exercising any other right which we may have under this Franchise Agreement, including, without limitation, termination.~~

## 11.B — OUR RIGHT TO AUDIT.

~~We may, at any time during your business hours, and without prior notice to you, examine your Travelin' Tom's Coffee Franchise business, bookkeeping, and accounting records, sales and income tax records and returns, and other records. We may also conduct an audit through independent auditors, which may involve auditors conducting an examination at the location of your Travelin' Tom's Coffee Franchise or, alternatively, your submission of such materials to auditors. We may also require you to conduct a complete self-audit of the Travelin' Tom's Coffee Franchise, in which case you agree to audit the Travelin' Tom's Coffee Franchise in accordance with our instructions and System Standards. You agree to cooperate fully with us, our representatives, and independent accountants in any examination. Furthermore, if an examination is necessary due to your failure to furnish reports, supporting records, or other information as required, or to furnish these items on a timely basis, or if our examination reveals a failure to report, you agree to reimburse us for the costs of the examination, including, without limitation, the charges of attorneys and independent accountants and the travel expenses, room and board, and compensation of our employees. If an audit reveals that your purchases of Travelin' Tom's Coffee branded cups equals less than thirty percent (30%) of your gross sales, you shall pay us a branded cup audit fee of \$3,000 unless you can provide written substantiation of proper usage of branded cups in your Travelin' Tom's Business. These remedies are in addition to our other remedies and rights under this Franchise Agreement and applicable law, including the fee for violations under Section 9J.~~

## 12. — TRANSFERS.

### 14.2 TRANSFERProprietary Software

We may also develop proprietary software or technology that must be used by Travelin' Tom's franchisees. If this occurs, you agree to enter into a license agreement with us (or an affiliate of ours) and pay us (or our affiliate) commercially reasonable licensing, support and maintenance fees. The license agreement will govern the terms under which you may utilize this software or technology. We also reserve the right to enter into a master software or technology license agreement with a third-party licensor and then sublicense the software or technology to you, in which case we may charge you for all amounts we must pay to the licensor based on your use of the software or technology.

### 14.3 Our Access

You will provide any assistance we require to connect to the Technology. We will have the right at any time to retrieve data and other information from your Technology as we, in our sole discretion, deem necessary or desirable. You shall ensure that we have access at all times to any Technology we request, at your cost. You must provide us with any and all requested codes, passwords and information necessary to access your Technology. You must receive our prior approval before changing such codes, passwords and other necessary information.

## 4.15. TRANSFER BY US.

~~We maintain a staff to manage and operate the System and staff members can change as employees come and go. We cannot guarantee the continued participation by or employment of any of our shareholders, directors, officers, or employees.~~

This Franchise Agreement is fully assignable by us (without prior notice to you) and shall inure to the benefit of any assignee(s) or other legal successor(s) to our interest in this Franchise Agreement; provided that we shall, subsequent to any such assignment, remain liable for the performance of our obligations under this Franchise Agreement up to the effective date of the assignment. We may also delegate some or all of our obligations under this Franchise Agreement to one or more designees without assigning this Franchise Agreement.

We may change our ownership or form and/or assign this Franchise Agreement and any other agreement to a third party without restriction. After our assignment of this Franchise Agreement to a third party who expressly assumes the obligations under this Franchise Agreement, we no longer will have any performance or other obligations under this Franchise Agreement.

#### 12.A — ~~TRANSFER BY YOU.~~

~~You understand and acknowledge that the rights and duties this Franchise Agreement creates are personal to you and your Owners and that we have granted you the Travelin' Tom's Coffee Franchise in reliance upon our perceptions of your and your Owners' individual or collective character, skill, aptitude, attitude, business ability, and financial capacity. None of the following may be transferred without our prior written approval: (i) this Franchise Agreement (or any interest in this Franchise Agreement); (ii) the Travelin' Tom's Coffee Franchise (or any right to receive all or a portion of the Travelin' Tom's Coffee Franchise's profits, losses, purchase price, or capital appreciation related to the Travelin' Tom's Coffee Franchise); (iii) substantially all of the assets of the Travelin' Tom's Coffee Franchise, including, without limitation, the BEV or any Additional Equipment; (iv) any ownership interest in you (regardless of its size); or (v) any ownership interest in any of your Owners (if such Owners are legal entities). A transfer of the Travelin' Tom's Coffee Franchise ownership, possession, or control, or substantially all of its assets, may be made only with a transfer of this Franchise Agreement. All proposed transfers of Additional Equipment require our approval. Any transfer without our approval is a breach of this Franchise Agreement and has no effect.~~

~~In this Franchise Agreement, the term "transfer" includes a voluntary, involuntary, direct, or indirect assignment, sale, gift, exchange, grant of a security interest, or change of ownership in this Franchise Agreement, the Travelin' Tom's Coffee Franchise, the Franchise or interest in the Travelin' Tom's Coffee Franchise, or other disposition. An assignment, sale, gift, or other disposition includes the following events:~~

- ~~(1) — transfer of ownership of capital stock, a partnership or membership interest, or another form of ownership interest;~~
- ~~(2) — merger or consolidation or issuance of additional securities or other forms of ownership interest;~~
- ~~(3) — any sale of a security convertible to an ownership interest;~~
- ~~(4) — transfer of an interest in you, this Franchise Agreement, the Travelin' Tom's Coffee Franchise or substantially all of its assets, or in your Owners in a divorce, insolvency, entity dissolution proceeding, or otherwise by operation of law;~~
- ~~(5) — if one of your Owners dies, a transfer of an interest in you or your Owner by will, declaration of or transfer in trust, or under the laws of intestate succession;~~



- ~~(6) — foreclosure upon the Travelin’ Tom’s Coffee Franchise, or your transfer, surrender, or loss of possession, control, or management of the Travelin’ Tom’s Coffee Franchise; or~~
- ~~(7) — subleasing your BEV to a third party without express written consent.~~

~~You may not pledge this Franchise Agreement (to someone other than us), or an ownership interest in you or your Owners as security for any loan or other financing, unless (1) we grant our prior written consent, and (2) unless we agree otherwise in writing, the lender agrees its claims will be subordinate to all amounts you owe at any time to us or our affiliates.~~

## ~~12.B — CONDITIONS FOR APPROVAL OF TRANSFER.~~

~~If you are in full compliance with this Franchise Agreement, subject to the other provisions of this Section 13, we will approve a transfer that meets all the requirements in this Section. A non-controlling ownership interest in you or your Owners (determined as of the date on which the proposed transfer will occur) may be transferred if the proposed transferee and its direct and indirect owners (if the transferee is an Entity) are of good character, pass a background check, and meet our then applicable standards for Travelin’ Tom’s Coffee Franchise owners (including no ownership interest in or performance of services for a Competitive Business), you and each of your Owners execute an amendment to this Franchise Agreement acknowledging the change in ownership interests, you reimburse our attorney fees associated with approval of the transfer, and each of the new owners executes our then current form of Owners Agreement. If the proposed transfer is of this Franchise Agreement or of a controlling ownership interest in you or one of your Owners, or is one of a series of transfers (regardless of the time period over which these transfers take place) which in the aggregate transfers this Franchise Agreement or a controlling ownership interest in you or one of your Owners, then all of the following conditions must be met before or concurrently with the effective date of the transfer:~~

- ~~(1) — the transferee must apply for a Travelin’ Tom’s Coffee Franchise and must meet all of our standards to become a Travelin’ Tom’s Coffee franchisee and have, in our sole discretion, sufficient business experience, aptitude, and financial resources to operate the Travelin’ Tom’s Coffee Franchise;~~
- ~~(2) — you have paid all Royalty and Brand Fund Contributions, and other amounts owed to us, our affiliates, and third party vendors, including any outstanding financing for the BEV and any Additional Equipment, and have submitted all required reports and statements;~~

## **16. you TRANSFER BY YOU**

### **16.1 Approval**

For purposes of this Franchise Agreement, “Transfer” means any direct or indirect, voluntary or involuntary (including by judicial award, order or decree) assignment, sale, conveyance, subdivision, sublicense or other transfer or disposition of the Franchise Agreement, the Franchised Business (or any portion thereof), or a direct or indirect ownership interest in an Entity that is the franchisee (or any interest therein), including by merger or consolidation, by issuance of additional securities representing an ownership interest in the Entity that is the franchisee, or by operation of law, will or a trust upon the death of an Owner (including the laws of intestate succession).

Neither you nor any Owner may engage in any Transfer without our prior written approval. Any Transfer without our approval shall be void and constitute a breach of this Franchise Agreement. Our consent to a Transfer shall not constitute a waiver of any claims we may have against you or the Owners, nor shall it be deemed a waiver of our right to demand exact compliance with any of the terms or conditions of the Franchise Agreement by the transferee.

## **16.2 Our Right of First Refusal**

If you or an Owner desires to engage in a Transfer, you or the Owner, as applicable, must obtain a bona fide, signed written offer from the fully disclosed purchaser and submit an exact copy of the offer to us. We will have 30 days after receipt of the offer to decide whether we will purchase the Franchised Business (our “Right of First Refusal”). If we notify you that we intend to purchase the Franchised Business within such 30-day period, you or the Owner, as applicable, must sell the Franchised Business to us on the same terms as contained in the offer you received; provided that we may substitute cash for any non-cash form of payment proposed in the offer.

We will have at least an additional 30 days to conduct a due diligence review and to prepare for closing. You agree to provide us with all information and records we request about the Franchised Business, and we will have the absolute right to terminate the obligation to purchase the Franchised Business for any reason during the due diligence period. You and we will act in good faith to agree on the terms and conditions of the written offer, and closing will take place on the 61<sup>st</sup> day following receipt of your offer. We will be entitled to receive from you or the Owner, as applicable, all customary representations and warranties given by you as the seller of the assets or the Owner as the seller of the ownership interest or, at our election, the representations and warranties contained in the offer. If we do not exercise our right of first refusal, you or the Owner, as applicable, may complete the Transfer to the purchaser pursuant to and on the terms of the offer, subject to the requirements of this Section (including our approval of the transferee). However, if the sale to the purchaser is not completed within 120 days after delivery of the offer to us, or there is a material change in the terms of the sale, we will again have the Right of First Refusal specified in this Section.

Our Right of First Refusal is fully transferable by us to any affiliate or third party.

## **16.3 Transfer Conditions**

We will not unreasonably withhold our approval of any proposed Transfer; provided that the following conditions are all satisfied (“Transfer Conditions”):

16.3.1 Written Notice. You have provided us with written notice of the proposed Transfer at least 45 days before the transaction. You must also submit a copy of the proposed purchase agreement together with all supporting documents and schedules between you and the proposed transferee to us for our review to ensure that the Transfer does not violate any term of this Franchise Agreement.

16.3.2 Qualified Transferee. The proposed transferee does not own or perform services for a Competitive Business, and is, in our opinion, an individual of good moral character with sufficient business experience, aptitude and financial resources to own and operate a Franchised Business and otherwise meets all of our then-applicable standards for franchisees and the purchase price and terms of the proposed transfer must not be so burdensome to the prospective transferee as to impair or threaten the future operation of the Franchised Business.

16.3.3 Monetary Obligations. All of your monetary obligations to us and our affiliates



have been paid in full and you and the Owners are in full compliance with the terms of this Franchise Agreement and all other agreements with us or our affiliate(s) and have cured all existing defaults of this Franchise Agreement.

16.3.4 Compliance with Franchise Agreement. You have not violated any provision of this Franchise Agreement or any other agreement with us during both the 60-day period before you requested our consent to the transfer and the period between your request and the effective date of the transfer;

~~neither the~~ 16.3.5 Training. The transferee ~~nor its owners (has (or if the transferee is an Entity) or affiliates have an ownership interest (direct or indirect) in or perform services for a Competitive Business;~~

- (4) ~~the transferee (or, its approved Managing Owner, or, if applicable, Designated Manager) satisfactorily complete our~~ and any Franchise Manager have) successfully completed, or made arrangements to attend, the initial training program;

(and the transferee has paid us the training fee for each new person who must attend training).

16.3.6 Licenses and Permits. The transferee ~~agrees~~ and its owners, to the extent necessary, have obtained all licenses and permits required by applicable law to own and operate the Franchised Business.

16.3.7 New Franchise Agreement. You must request that the transferee be provided with our then-current form of franchise disclosure document. You agree that we will not be liable for any representations that you or your Owners make that are inconsistent with such franchise disclosure document. The transferee and its owners sign our then-current form of franchise agreement and related documents, including, but not limited to, our then-current form of Franchise Owner Agreement or other guaranty (unless we, in our sole discretion, instruct you to assign this Franchise Agreement to the transferee), except that: (i) the Term and successor term(s) shall be the Term and successor term(s) remaining under this Franchise Agreement; and (ii) the transferee does not need to pay a separate initial franchise fee.

16.3.8 Transfer Fee. You pay us a transfer fee of: (i) \$5,000 if the transferee is an existing Travelin' Tom's Coffee franchisee; or (ii) \$7,500 if the transferee is not a current Travelin' Tom's Coffee franchisee plus \$1,000 for each piece of Additional Equipment (if any) that you transfer ("Transfer Fee"). You will pay the Transfer Fee to us as follows: (i) \$1,000 non-refundable deposit at the time of your transfer application request; and (ii) the remaining balance shall be due at or before the time you consummate the approved Transfer. If the transferee is a lead of ours or was referred to you by us, then in addition to the transfer fee, you agree to pay us \$15,000.

16.3.9 General Release. You and each of your Owners sign a general release in the form we prescribe for all known and unknown claims against us, our affiliates and subsidiaries, and our and their respective members, officers, directors, agents and employees, arising before or contemporaneously with the Transfer. If the proposed transferee has any previous relationship with us or our affiliates, then the proposed transferee must also execute a general release.

16.3.10 Right of First Refusal. We do not elect to exercise our Right of First Refusal.

16.3.11 Subordination. We may, in our sole discretion, require you to enter into an agreement with us to subordinate the transferee's obligations to you to the transferee's financial obligations

owed to us under the Franchise Agreement.

16.3.12 Broker Costs. You must pay any broker costs, commissions or other placement fees we incur as a result of the Transfer.

16.3.13 BEV and Additional Equipment. The transferee must agree to take possession of the BEV (together with all Additional Equipment, if any, under this Franchise Agreement), as a condition to the transfer. The transferee must agree to pay us or our affiliates a remodel fee to upgrade, remodel, and refurbish the Travelin' Tom's Coffee Franchise Franchised Business, including the BEV (and any Additional Equipment), in accordance with our current requirements and specifications for the Travelin' Tom's Coffee Franchise Franchised Business, within 45 days after the effective date of the transfer (we will advise the transferee before the effective date of the transfer of the specific actions it must take within this time period), and to deposit with us the estimated cost to complete the upgrade or remodel. If the BEV (and/or any Additional Equipment) does not meet our System standards then the transferee must replace such BEV (and/or Additional Equipment) at its sole cost and expense.

16.3.14 Other Conditions. You and each of your Owners agree to comply with all obligations that survive the transfer shall (if the transfer is termination, expiration or Transfer of this Franchise Agreement), or you shall (if the transfer is of a controlling ownership interest in you or one of your Owners), sign our then-current form of franchise agreement and related documents. The transfer must be made in compliance with any laws that apply to the transfer including but not limited to our then-current form of Owners Agreement or other guaranty, any all laws governing the offer and all sale of franchises. You or the provisions of which may differ materially from any transferring Owner, as applicable, and all of those contained in this Franchise Agreement;

you or the transferee pays us a transfer fee. The transfer fee to transfer the Travelin' Tom's Coffee Franchise to a then-existing Travelin' Tom's Coffee franchisee is \$5,000 (per Franchise) and \$7,500 (per Franchise) to transfer the Travelin' Tom's Coffee Franchise to any other parties. You must pay us a \$1,000 non-refundable deposit upon the request for have satisfied any other conditions we reasonably require as a condition to our approval of the transfer. If this Travelin' Tom's Coffee Franchise transfer is to your child, parent, sibling, or spouse, we will not charge a transfer fee but you will be required to reimburse us any attorney fees we incur; Transfer.

- (6) — unless prohibited by state law, you and your transferring Owners sign a general release, in a form satisfactory to us, of any and all claims against us and our shareholders, officers, directors, employees, and agents;
- (7) — if you or your Owners finance any part of the purchase price, you and/or your Owners agree that all of the transferee's obligations under promissory notes, agreements, or security interests reserved in the Travelin' Tom's Coffee Franchise are subordinate to the transferee's obligation to pay Royalty and Brand Fund Contributions and other amounts due to us, our affiliates, and third party vendors and otherwise to comply with this Franchise Agreement. You must acknowledge and agree that we are not a party to or liable for financing arrangements between the transferor and transferee;
- (8) — you and your transferring Owners (and your and their spouses and other immediate family members) will not, for two years beginning on the transfer's effective date, engage in any of the activities proscribed in Section 16D below;
- (9) — you and your transferring Owners will not directly or indirectly at any time or in any manner (except with respect to other Travelin' Tom's Coffee Franchises you own and

~~operate) identify yourself or themselves or any business as a current or former Travelin' Tom's Coffee Franchise or as one of our franchise owners; use any Mark, any colorable imitation of a Mark, or other indicia of a Travelin' Tom's Coffee Franchise in any manner or for any purpose; or utilize for any purpose any trade name, trade, or service mark, or other commercial symbol that suggests or indicates a connection or association with us;~~

- (10) ~~if the transferee is a lead of ours or was referred to you by us, then in addition to the transfer fee, you agree to pay us \$15,000. Alternatively, if the transfer results in us incurring any broker or other placement fees, then in addition to the transfer fee, you agree to reimburse us upon receipt of our invoice; and~~
- (11) ~~the transferee agrees to take possession of the BEV, together with all Additional Equipment under this Franchise Agreement, as a condition to the transfer.~~

~~We may review all information regarding the Travelin' Tom's Coffee Franchise you give the transferee, correct any information we believe is inaccurate, and give the transferee copies of any reports you have given us or we have made regarding the Travelin' Tom's Coffee Franchise.~~

#### ~~12.C TRANSFER TO AN ENTITY~~

##### **16.4 You may transfer your ownership interests to a differentTransfer to an Entity with our approval,**

~~If you are an individual, you may transfer your ownership interests to an Entity provided that: (i) the controlling ownership interests remain Owner or Owners of the Entity are the same and all owners persons who signed this Franchise Agreement and (ii) you comply with all conditions set forth in Section 13C, except that you the Transfer Conditions. Our Right of First Refusal will not be required to pay us apply for a transfer fee Transfer conducted under such section. However, this Section and you must reimburse us for all of our fees and costs, including attorney fees; (in lieu of the Transfer Fee), associated with your transfer Transfer to the Entity. In lieu of entering into a new Entity. Our right of first refusal in Section 13D Franchise Agreement, you will be required to enter into any required documentation, which may include an approval of transfer agreement, a general release of claims and a Franchise Owner Agreement in the forms we prescribe.~~

#### ~~12.D DEATH OR DISABILITY.~~

##### **16.5 Transfer Upon Death or Disability.**

- (1) ~~Upon the Managing Owner's death or disability, the Managing Owner's executor, administrator, conservator, guardian, or other personal representative must transfer of you (if you are an individual) or of the Managing Owner (if you are an Entity), your interest in the Franchised Business or the Managing Owner's ownership interest in you to a third party (which may, as applicable, must be your or the Managing Owner's heirs, beneficiaries, devisees, or other Owners of the Entity). That transfer must be completed assigned to a third party or another Managing Owner approved by us within a reasonable time, not to exceed 90 days from the date of such person's death or disability, and is subject to all of the terms and conditions in this Section 13. A failure to transfer the Managing Owner's ownership interest in you within this time period is a breach of this Franchise Agreement, and this Franchise Agreement may be terminated. The term "as the case may be. For purposes of this Section, a person is deemed to have a disability" means a only if the person has a medical or mental or physical disability, impairment, or illness, problem or~~

incapacity that would prevent the person from substantially complying with his or her obligations under this Franchise Agreement or otherwise operating the Franchised Business in the manner required by this Franchise Agreement and the Brand Manual for a continuous period of at least 90 consecutive calendar days, and from which condition reasonably expected to prevent or that actually does prevent the Managing Owner recovery within 90 days from supervising the management and operation of the Travelin' Tom's Coffee Franchise.

Operation Upon Death or Disability or Default.the date of determination of disability is unlikely. If the parties disagree as to whether a person is disabled, the existence of disability will be determined by a licensed practicing physician selected by us, upon examination of the person; or if the person refuses to submit to an examination, then (for the purpose of this Section) the person automatically will be considered disabled as of the date of refusal. Your (or the deceased Managing Owner's) estate or legal representative must apply to us for the right to Transfer to the next of kin within 60 calendar days after your or your Managing Owner's death or disability. If, upon the Managing Owner's death or disability, a manager approved by us is not managing the Travelin' Tom's Coffee FranchiseFranchised Business, your or the Managing Owner's executor, administrator, conservator, guardian, or other personal representative must appoint a replacement manager within 15 days from the date of death or disability. The manager must complete our standard Initial Training at your expense. If applicable, a new Managing Owner acceptable to us also must be appointed for the Travelin' Tom's Coffee FranchiseFranchised within 30 days of the date of the death or disability.

#### 12.E — EFFECT OF CONSENT TO TRANSFER.

### **17. Our consent to a transferINTELLECTUAL PROPERTY**

#### **17.1 Ownership and Use of Intellectual Property**

For purposes of this Franchise Agreement and the Travelin' Tom's Coffee Franchise, "Intellectual Property" means the Marks, the Patent, our copyrighted materials including all artworks and designs, "Confidential Information" (defined below), the System and "Improvements" (defined below). You acknowledge that: (i) we, or any our affiliates, if applicable, are the sole and exclusive owner of the Travelin' Tom's Intellectual Property and the goodwill associated with the Marks; (ii) your right to use the Intellectual Property is derived solely from this Franchise Agreement; and (iii) your right to use the Intellectual Property is limited to a license granted by us to operate your Franchised Business during the Term pursuant to, and only in compliance with, this Franchise Agreement, the Brand Manual, and all applicable standards, specifications and operating procedures we prescribe from time to time. You may not use any of the Intellectual Property in connection with the sale of any unauthorized product or service, or in any other manner not expressly authorized by us. Any unauthorized use of the Intellectual Property constitutes an infringement of our rights. You agree to comply with all provisions of the Brand Manual governing your use of the Intellectual Property. This Franchise Agreement does not confer to you any goodwill, title or interest in you or your Owners, is not any of the Intellectual Property. You agree that during the Term of this Franchise Agreement and after its termination, expiration or Transfer you will not, directly or indirectly, contest our interest in the Intellectual Property.

For purposes of this Franchise Agreement, "Confidential Information" means all of our trade secrets and other proprietary information relating to the development, construction, marketing and/or operation of a Franchised Business, including, but not limited to, methods, techniques, specifications, procedures, policies, marketing strategies and information comprising the System, the Brand Manual, written directives and all drawings, equipment, computer and point of sale programs (and output from such programs).



software including the KonaOS operating software, passwords, source code and any other information, know-how, techniques, material, data and similar items imparted or made available by us to you.

For purposes of this Franchise Agreement, “Improvements” means any improvements or additions to the System, the Patent, Marks, marketing, method of operation, or the products or services offered by a Franchised Business.

## **17.2 Changes to Intellectual Property**

We may modify the Intellectual Property at any time in our sole and absolute discretion, including by changing the Marks, the System, our copyrights or the Confidential Information. If we modify or discontinue use of any of the Intellectual Property, then you must comply with any such instructions from us within 30 days, at your expense. We will not be liable to you for any expenses, losses or damages you incur (including the loss of any goodwill associated with a Mark or Patent) because of any addition, modification, substitution or discontinuation of the Intellectual Property.

## **17.3 Use of Marks and Patent**

Your right to use the Marks and the Patent are derived only from this Franchise Agreement and limited to your operating the Franchised Business according to this Franchise Agreement and all System standards we prescribe. You agree that any use of the Marks and the Patent by you and your Franchised Business shall contribute and inure to our benefit. Your unauthorized use of the Marks and/or Patent is a breach of this Franchise Agreement and infringes our rights in the Marks and/or Patent. You acknowledge and agree that any unauthorized use of the Marks and/or Patent will cause us irreparable harm for which there is no adequate remedy at law and will entitle us to injunctive relief. You acknowledge and agree that your use of the Marks and Patent and any goodwill established by that use are exclusively for our benefit and this Franchise Agreement does not confer any goodwill or other interests in the Marks or Patent upon you (other than the right to operate the Franchised Business under this Franchise Agreement). All provisions of this Franchise Agreement relating to the Marks and Patent apply to any additional trademarks or patents we authorize you to use.

You agree to use the Marks as the sole identification of your Franchised Business; provided, however, you must identify yourself as the independent owner of your Franchised Business in the manner we prescribe. You may not use any Marks in any modified form or as part of any corporate name or with any prefix, suffix or other modifying words, terms, designs or symbols (other than logos licensed to you by this Franchise Agreement). You may not use any Mark in advertising the transfer, sale, or other disposition of the Travelin’ Tom’s Coffee Franchise or an ownership interest in you without our prior written consent, which we will not unreasonably withhold. You agree to: (i) prominently display the Marks on or in connection with any media advertising, promotional materials, posters and displays, receipts, stationery and forms that we designate, and in the manner we prescribe to give notice of trade and service mark registrations and copyrights; and (ii) obtain any fictitious or assumed name registrations required under applicable law. You may not use the Marks in signing any contract, lease, mortgage, check, purchase agreement, negotiable instrument, or other legal obligation or in any manner that is likely to confuse or result in liability to us for any indebtedness or obligation of yours.

## **17.4 Use of Confidential Information**

You acknowledge that you will use the Confidential Information only in operating the Franchised Business, and you will not disclose Confidential Information to others, except as expressly authorized by this Franchise Agreement. You will take all actions to preserve the confidentiality of all Confidential

Information, including safeguarding access to the Brand Manual. You will not copy or permit copying of Confidential Information. Your obligations under this Section begin when you sign this Franchise Agreement and continue for trade secrets as long as they remain secret, and, for other Confidential Information, for as long as we continue to use the information in confidence (even if edited or revised) plus an additional three years afterwards. We will respond promptly and in good faith to any inquiry by you about continued protection of any Confidential Information.

All data you collect, create, provide or otherwise develop (including, but not limited to, customer information and customer lists) is (and will be) owned exclusively by us, and we will have the right to use such data in any manner that we deem appropriate without compensation to you. Copies and/or originals of such data must be provided to us upon our request. We license use of such data back to you, at no additional cost, solely for the Term of this Franchise Agreement and solely for your use in connection with the Franchised Business. You agree to provide us with the information we reasonably require regarding data and cybersecurity requirements. You agree to indemnify us for any loss of data, including, but not limited to, customer information resulting from a breach of such data caused, in whole or in part, by you. You agree to solely use customer lists and customer information for the operation of the Franchised Business and for no other purpose.

The restrictions on the disclosure and use of the Confidential Information will not apply to disclosure of Confidential Information: (i) made in confidence to a government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law; (ii) made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal; or (iii) made in cases of suit for retaliation based on the reporting of a suspected violation of law, disclosure of Confidential Information to an attorney, and for use of the Confidential Information in such court proceeding, so long as any document containing the Confidential Information is filed under seal and Confidential Information is not otherwise disclosed pursuant to a court order.

We do not make any representation or warranty that your use of the System and Confidential Information will not infringe on the patent, copyright or other proprietary rights of third parties. You agree that we will have no liability to you if the System and/or any Confidential Information is held not to be secret or confidential or in the event that any infringement of others' proprietary rights occurs because of your use of the System and Confidential Information.

#### **17.5 Improvements**

If you conceive of or develop any Improvements, you agree to promptly and fully disclose the Improvements to us without disclosing the Improvements to others. You must obtain our approval before using any such Improvements. Any Improvement we approve may be used by us and any third parties we authorize to operate a Franchised Business, without any obligation to pay you royalties or other fees. You must assign to us or our designee, without charge, all rights to any such Improvement, including the right to grant sublicenses. In return, we will authorize you to use any Improvements we or other franchisees develop that we authorize for general use with the operation of a Franchised Business. These obligations shall survive the termination, expiration or Transfer of this Franchise Agreement.

#### **17.6 Notification of Intellectual Property Issues**

You must notify us as soon as possible, but no later than three business days of any: (i) apparent infringement of any of the Intellectual Property; (ii) challenge to your use of any of the Intellectual Property; or (iii) claim by any person of any rights in any of the Intellectual Property. You may not communicate with any person other than us and our counsel in connection with any such infringement, challenge or claim.



We will have sole discretion to take such action as we deem appropriate. We have the right to exclusively control any litigation, Patent and Trademark Office proceeding, or other proceeding arising out of any such infringement, challenge or claim. You agree to execute any and all instruments and documents, render such assistance, and do such acts and things as may, in the opinion of our counsel, be necessary or advisable to protect and maintain our interest in any such litigation, Patent and Trademark Office proceeding, or other proceeding, or to otherwise protect and maintain our interest in the Intellectual Property.

## **18. BRAND COVENANTS**

### **18.1 Reason for Covenants**

The covenants in this Section 18 shall be referred to as the “Brand Covenants.”

You acknowledge that the System is distinctive and has been developed by us and/or our affiliates at great effort, time and expense, and that the Intellectual Property and the training and assistance we provide would not be acquired except through implementation of this Franchise Agreement. You also acknowledge that competition by you, the Owners, or persons associated with you or the Owners (including family members) could jeopardize the entire System because you and the Owners have received an advantage through knowledge of our day-to-day operations and Confidential Information related to the System. Accordingly, you and the Owners agree to comply with the covenants described in this Section to protect the Intellectual Property and our System.

### **18.2 Unfair Competition During the Term**

For purposes of this Franchise Agreement, “Competitive Business” means any business that: (i) operates a food truck, beverage truck or primarily serves food and/or beverages from a vehicle, kiosk or other moveable property; (ii) derives at least 5% or more of its gross sales from the offering of coffee, tea or similar products; (iii) sells or offers to sell products the same as or similar to the type of products sold by the Franchised Business as the concept evolves over time; (iv) provides or offers to provide services the same as or similar to the type of services sold by you; or (v) any business that grants franchises or licenses to others or operates the type of businesses specified in subparagraphs (i) through (iv) above, but excludes a Franchised Business operating under a franchise agreement with us or our affiliates. A Competitive Business shall not include ownership of up to five percent (5%) of any publicly-held company or mutual fund that owns, operates, has an interest in, or controls any business that otherwise would meet the definition of a Competitive Business.

You agree not to compete with us during the Term by engaging in any of the following activities (“Prohibited Activities”): (i) owning, operating, or having any other interest (as an owner, partner, director, officer, employee, manager, consultant, shareholder, creditor, representative, agent, or in any similar capacity) in any Competitive Business; (ii) diverting or attempting to divert any business from us (or one of our affiliates or franchisees); or (iii) inducing any customer of ours (or of one of our affiliates’ or franchisees’) to transfer their business to you or to any other person that is not then a franchisee of ours.

### **18.3 Unfair Competition After the Term**

For purposes of this Section, the “Restricted Period” means a period of two years after the termination, expiration or Transfer of this Franchise Agreement. For purposes of this Section, the “Restricted Territory” means the geographic area within: (i) a 20-mile radius of the Territory; and (ii) a 20-mile radius from all other Franchised Businesses that are operating as of the date of the termination, expiration or Transfer of this Franchise Agreement.

During the Restricted Period, you agree that you will not engage in any Prohibited Activities within the Restricted Territory and that you will cause each of your Owners to not engage in any Prohibited Activities within the Restricted Territory. If you or any Owner engages in a Prohibited Activity within the Restricted Territory during the Restricted Period, then the Restricted Period applicable to you (and applicable to each non-compliant Owner under the Franchise Owner Agreement) will be extended by the period of time during which you or the non-compliant Owner, as applicable, engaged in the Prohibited Activity.

#### **18.4 Employees and Others**

Any Franchise Manager and, if you are an Entity, any officer that does not own equity in you must sign our current System Protection Agreement. You must ensure that all of your employees, officers, directors, partners, members, independent contractors, and other persons associated with you or your Franchised Business who may have access to our Confidential Information, and who are not required to sign a System Protection Agreement, sign the Confidentiality Agreement before having access to our Confidential Information. You must use your best efforts to ensure these individuals comply with the terms of the Confidentiality Agreements and System Protection Agreements, and you must immediately notify us of any breach that comes to your attention. You agree to reimburse us for all expenses we incur in enforcing a Confidentiality Agreement or System Protection Agreement, including reasonable attorney fees and court costs.

#### **18.5 Covenants Reasonable**

The parties agree that the Brand Covenants will be construed as independent of any other covenant or provision of this Franchise Agreement. It is the parties' intent that the provisions of this Section be judicially enforced to the fullest extent permissible under applicable law. If all or any portion of any Brand Covenant is held unreasonable or unenforceable by a court or agency having valid jurisdiction in a final decision to which we are a party, you agree to be bound by any lesser covenant subsumed within the terms of such Brand Covenant that imposes the maximum duty permitted by law, as if the resulting Brand Covenant were separately stated in and made a part of this Section. Accordingly, the parties agree that any reduction in scope or modification of any part of the non-competition provisions contained herein shall not render any other part unenforceable. You acknowledge and agree that: (i) the terms of this Franchise Agreement are reasonable both in time and in scope of geographic area; (ii) our use and enforcement of covenants similar to those described above with respect to other "Travelin' Tom's" franchisees benefits you and the Owners because it prevents others from unfairly competing with your Franchised Business; and (iii) you and the Owners have sufficient resources and business experience and opportunities to earn an adequate living while complying with the terms of this Franchise Agreement. You hereby waive any right to challenge the terms of the Brand Covenants as being overly broad, unreasonable or otherwise unenforceable.

We have the right, in our sole discretion, to unilaterally reduce the scope of all or part of any Brand Covenant without your consent (before or after any dispute arises), effective when we give you written notice of this reduction and you agree to comply with any covenant as so modified.

#### **18.6 Breach of Covenants**

You agree that failure to comply with the terms of Brand Covenants will cause substantial and irreparable damage to us and/or other "Travelin' Tom's" franchisees for which there is no adequate remedy at law. Therefore, you agree that any violation of the terms of this Section 18 of the fairness of the terms of any contract between you and the transferee, a guarantee of the Travelin' Tom's Coffee Franchise's or transferee's prospects of success, or a waiver of any will entitle us to injunctive relief. We may apply for



such injunctive relief without bond, but upon due notice, in addition to such further and other relief as may be available at equity or law, and the sole remedy of yours, in the event of the entry of such injunction will be the dissolution of such injunction, if warranted, upon hearing duly held (all claims we-for damages by reason of the wrongful issuance of any such injunction being expressly waived hereby). Notwithstanding the foregoing, if a court requires the filing of a bond, the parties agree that the amount of the bond shall not exceed \$1,000. None of the remedies available to us, at law or in equity, under this Franchise Agreement are mutually exclusive, and may be combined with others, including injunctive relief, specific performance, and recovery of monetary damages. Any claim, defense or cause of action you or an Owner may have against you (or your Owners) or of our right to demand the transferee's full compliance with this Franchise Agreement, regardless of cause or origin, cannot be used as a defense against our enforcement of the Brand Covenants.

## **19. INSURANCE**

Before your Franchised Business opens for business, you shall procure, maintain, and provide evidence of insurance as follows: (a) workers' compensation insurance in an amount not less than \$500,000 or a higher amount as prescribed by state statute or rule in the state in which your Franchised Business is located; (b) comprehensive business automobile insurance, including physical damage for the BEV, in an amount covering the cost of the BEV (and any Additional Equipment) or greater, except that an appropriate deductible clause (maximum or \$5,000 deductible) will be permitted, also including any ancillary equipment and any other property used in the operation of the Franchised Business; (c) comprehensive general liability insurance and product liability insurance coverage in such amounts and upon such terms as may from time to time be customary for a mobile food business in your Territory, but not less than \$1,000,000, insuring both you and us against all claims, suits, obligations, liabilities, and damage, including attorney fees, based upon or arising out of actual or alleged personal injuries or property damage relating to the use or condition of the BEV (or Additional Equipment); (d) automobile (truck) vehicle liability insurance covering the driving of the BEV (and any Additional Equipment) in an amount of not less than \$1,000,000; and (e) such additional insurance as we may periodically require.

All of these policies must contain the minimum coverage we periodically prescribe in our Brand Manual or other written communications to you and must have deductibles not to exceed the amounts we specify. These insurance policies, except for employment liability insurance policies, must name us and any affiliates we designate as additional named insureds.

If your state requires higher coverages than we prescribe, you will be required to obtain insurance that satisfies your state law requirements. We may periodically increase the amounts of coverage required under these insurance policies and/or require different or additional insurance coverage (including reasonable excess liability insurance) at any time to reflect inflation, identification of new risks, changes in law or standards of liability, higher damage awards, or other relevant changes in circumstances as provided in our Brand Manual, as amended from time to time. These insurance policies must be purchased from an insurance company satisfactory to us and provide for 30 days prior written notice to us of a policy's material modification, cancellation, or expiration. You may purchase this insurance through our captive insurance program, which is offered through our affiliate. Each insurance policy must contain a waiver of all subrogation rights against us, our affiliates, and their successors and assigns. You must routinely furnish us copies of your certificates of insurance or other evidence of your maintaining this insurance coverage and paying premiums. If you fail to maintain any required insurance coverage, we have the right to obtain the coverage on your behalf (which right shall be at our option and in addition to our other rights and remedies in this Franchise Agreement), and you must promptly sign all applications and other forms and instruments required to obtain the insurance and pay to us, within ten days after invoicing, all costs and premiums that we incur, plus a 20% administrative surcharge.

## **20. REPORTING REQUIREMENTS**

### **20.1 Books and Records**

You agree to record all transactions and Gross Sales of your Franchised Business in the manner we specify. You agree to prepare and maintain for at least seven years after their preparation, complete and accurate books, records, accounts and tax returns pertaining to your Franchised Business including a list of all customers that your Franchised Business does business with and all contracts that your Franchised Business enters into. You must send us copies of your books, records, customer data and contracts within five days of our request. This obligation survives the expiration, termination or Transfer of this Franchise Agreement.

### **20.2 Reports**

You will prepare and submit other reports and information about your operations as we may request in writing or as required by the Brand Manual. You will submit all required reports in the formats and by the due dates specified in the Brand Manual. We may modify the deadline days and times for submission of all reports. We may require, in our sole discretion, that certain reports be certified as accurate and complete by you, your owners or your chief financial officer, and that they be submitted in certain methods or formats. If requested by us, your profit and loss statements and balance sheets must be certified by a certified public accountant at your expense. You must also make your certified public accountant available and cover the cost for him or her to consult with us concerning these statements and balance sheets.

### **20.3 Financial and Tax Statements**

You will deliver the financial statements that we proscribe, which may include a balance sheet, profit and loss statement, statement of cash flows and explanatory footnotes prepared under generally accepted accounting principles applied on a consistent basis or such other items we designate related to the financial activity of the Franchised Business (“Financial Statements”) to us within the time period required by the Brand Manual. All Financial Statements must be in the form specified by us and must conform to our standard chart of accounts as prescribed by us. We have the right to use such Financial Statements in our franchise disclosure document to make financial performance representations and to share these reports on a system-wide intranet or other similar means.

You must also provide us with complete signed copies of all state sales tax returns and state and federal income tax returns covering the operation of the Franchised Business within 30 days of filing.

### **20.4 Legal Compliance**

You must secure and maintain in force all required licenses, permits and regulatory approvals for the operation of your Franchised Business, and operate and manage your Franchised Business in full compliance with all applicable laws, ordinances, rules and regulations including, without limitation, government regulations relating to truth-in-lending, Department of Transportation regulations, safety and sanitation, truth in advertising, occupational hazards, health, laws relating to non-discrimination in hiring and accessibility, worker’s compensation and unemployment insurance. You are solely responsible for complying with all federal, state and local tax laws, agree to timely pay all applicable federal, state and local taxes, and timely file all returns, notices and other forms required to comply with all federal, state and local tax laws in connection with the operation of the Franchised Business. You and the Franchised Business must, in all dealings with customers, suppliers, us, and the public adhere to the highest standards

of honesty, integrity, fair dealing, and ethical conduct. It is your responsibility to make sure that you comply with all laws that are applicable to the Technology.

You must notify us in writing within three business days of the beginning of any action, suit, investigation or proceeding, or of the issuance of any order, writ, injunction, disciplinary action, award or decree of any court, agency or other governmental instrumentality, which may adversely affect the operation of your Franchised Business or your financial condition. You must immediately deliver to us a copy of any inspection report, warning, certificate or rating by any governmental agency involving any health or safety law, rule or regulation that reflects a claim you have failed to fully comply with the law, rule or regulation.

If any product dispensed by your Franchised Business violates our System standards or any applicable laws or regulations, or poses a health risk to the public, we may require that you immediately close the Franchised Business and not reopen until approved to do so by us and, if applicable, by any governmental entity or agency. In order to protect the public from any risk of harm and to protect the goodwill and reputation of the System, we may seek immediate injunctive relief seeking an order to close your Travelin' Tom's Coffee Business if you fail to close your Travelin' Tom's Coffee Business upon our request. In the event that injunctive relief is necessary, you shall pay all costs and expenses, including our attorneys' fees and costs incurred. The remedies herein are in addition to and not in substitution for those stated elsewhere in this Franchise Agreement.

You agree to comply, and to assist us to the fullest extent possible in our efforts to comply, with Anti-Terrorism Laws (defined below). In connection with that compliance, you certify, represent and warrant that none of your property or interests is subject to being blocked under, and that you and the owners otherwise are not in violation of, any of the Anti-Terrorism Laws. "Anti-Terrorism Laws" mean Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act, and all other present and future federal, state and local laws, ordinances, rules, regulations, policies, lists and other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war. Any violation of the Anti-Terrorism Laws by you or the Owners, or any blocking of your or the Owners' assets under the Anti-Terrorism Laws, shall constitute good cause for immediate termination of this Franchise Agreement.

## **21. INSPECTION AND AUDIT**

### **21.1 Inspections**

To ensure compliance with this Franchise Agreement, we or our representatives will have the right to, evaluate your Franchised Business operations, and inspect or examine your books, records, accounts and tax returns. We may also interview personnel and customers of the Franchised Business. Our evaluation may include observing or participating during business hours. We may conduct our evaluation at any time and without prior notice. During the course of our inspections, we and our representatives will use reasonable efforts to minimize our interference with the operation of your Franchised Business, and you, your employees and independent contractors will cooperate and not interfere with our inspection. You consent to us accessing your Technology and retrieving any information we deem appropriate in conducting the inspection. At all times and without prior notice to you, we and our designated agents or representatives may: (1) inspect the Franchised Business, BEV, (and/or any Additional Equipment); (2) photograph the Franchised Business, BEV, (and any Additional Equipment) and observe and videotape the operation thereof; (3) observe any products and supplies; (4) interview the Franchised Business' managers, personnel, and customers; (5) inspect and copy any books, records, and documents relating to the Franchised Business' operation; and (6) access any electronic records related to the Franchised Business.

### **21.2 Audit**

We may, at any time during your business hours, and without prior notice to you, examine your Franchised Business bookkeeping, and accounting records, sales and income tax records and returns, and other records. We may also conduct an audit through independent auditors, which may involve auditors conducting an examination at the location of your Franchised Business or, alternatively, your submission of such materials to auditors. We may also require you to conduct a complete self-audit of the Franchised Business, in which case you agree to audit the Franchised Business in accordance with our instructions and System standards. You agree to cooperate fully with us, our representatives, and independent accountants in any examination. Furthermore, if an examination is necessary due to your failure to furnish reports, supporting records, or other information as required, or to furnish these items on a timely basis, or if our examination reveals a failure to report, you agree to reimburse us for the costs of the examination, including, without limitation, the charges of attorneys and independent accountants and the travel expenses, room and board, and compensation of our employees. If an audit reveals that your purchases of Travelin' Tom's Coffee branded cups equals less than thirty percent (30%) of your gross sales, you shall pay us a branded cup audit fee of \$3,000 unless you can provide written substantiation of proper usage of branded cups in your Franchised Business. These remedies are in addition to our other remedies and rights under this Franchise Agreement and applicable law.

## **22. INDEMNITY**

### **22.1 Your Indemnification of Us**

Independent of your obligation to procure and maintain insurance, you and your Owners will indemnify, defend and hold us and our affiliates, the respective officers, directors, managers, partners, shareholders, members, employees, agents and contractors of these entities, and the successors, assigns, personal representatives, heirs and legatees of all of these persons or entities (collectively, the "Indemnified Parties") harmless, to the fullest extent permitted by law, from and against all expenses, losses, payments or obligations to make payments either (i) to or for third party claimants by any and all Indemnified Parties, including refunds, or (ii) incurred by any and all Indemnified Parties to investigate, take action, respond to or defend a matter, including investigation and trial charges, costs and expenses, fees, fees paid to

professionals, attorney fees, experts' fees, court costs, settlement amounts, judgments and costs of collection (collectively, "Losses and Expenses"), incurred by any Indemnified Parties for any investigation, claim, action, suit, demand, administrative or alternative dispute resolution proceeding, actually or allegedly, directly or indirectly, relating to, arising out of, or resulting from or in connection with: any transaction, occurrence, product or service involving the Franchised Business or this Franchise Agreement; your employment or other contractual relationship with your employees, workers, managers, or independent contractors, including but not limited to any allegation, claim, finding, or ruling that we are an employer or joint employer of your employees; your marketing, selling, or providing of items and services; and any breach of violation of any agreement (including this Franchise Agreement), or any law, regulation or ruling, by any act, error or omission (active or passive) of you, any party associated with you, or any of your or your affiliates' owners, officers, directors, managers, employees, owners and agents, including when any of the Indemnified Parties is alleged or proven to be negligent.

You agree to give us notice of any action, suit, proceeding, claim, demand, inquiry or investigation described above. The Indemnified Parties shall have the right, in their sole discretion to: (i) retain counsel of their own choosing to represent them with respect to any claim; and (ii) control the response thereto and the defense thereof, including the right to enter into an agreement to settle such claim. You may participate in such defense at your own expense. You agree to give your full cooperation to the Indemnified Parties in assisting the Indemnified Parties with the defense of any such claim, and to reimburse the Indemnified Parties for all of their costs and expenses in defending any such claim, including court costs and reasonable attorney fees, within ten days of the date of each invoice delivered by such Indemnified Party to you enumerating such costs, expenses and attorney fees.

## **22.2 Our Indemnification of You**

Provided that you are not in default under this Franchise Agreement or any other agreement with us, we will indemnify you and hold you harmless for, from and against any and all costs and expenses incurred by you as a result of or in connection with any claim asserted against you based upon the violation of any third party's intellectual property rights caused by your use of our Marks in strict compliance with the terms of this Franchise Agreement and Brand Manual. You must promptly notify us of any such claim and fully cooperate with us in the defense of such claim.

### **12.F—TERMINATION BY YOU OUR RIGHT OF FIRST REFUSAL**

~~If you or any of your Owners at any time determine to sell or transfer an interest in this Franchise Agreement, the BEV, the Travelin' Tom's Coffee Franchise, or an ownership interest in you (except to or among your current Owners, which is not subject to this Section), in a transaction that otherwise would be allowed under Sections 13B and 13C above, you or your Owners agree to obtain from a responsible and fully disclosed buyer, and send to us a true and complete copy of, a bona fide executed written offer (which may include a letter of intent) relating exclusively to an interest in you or in this Franchise Agreement and the Travelin' Tom's Coffee Franchise. The offer must include details of the payment terms of the proposed sale and the sources and terms of any financing for the proposed purchase price. To be a valid, bona fide offer, the proposed purchase price must be in a dollar amount, and the proposed buyer must submit with its offer an earnest money deposit equal to 5% or more of the offering price.~~

~~The right of first refusal process will not be triggered by a proposed transfer that would not be allowed under Sections 13B and 13C above. We may require you or your Owners to send us copies of any materials or information sent to the proposed buyer or transferee regarding the possible transaction.~~

~~We may elect to purchase the interest offered for the price and on the terms and conditions contained in the offer. Such election shall come by written notice delivered to you or your selling Owner(s) within 30 days after we receive (a) an exact copy of the offer and (b) all other information we request concerning the offer and the proposed purchaser, subject to our satisfaction, provided that:~~

- ~~(1) — we may substitute cash for any form of payment proposed in the offer (such as ownership interests in a privately held entity);~~
- ~~(2) — our credit will be deemed equal to the credit of any proposed buyer (meaning that, if the proposed consideration includes promissory notes, we or our designee may provide promissory notes with the same terms as those offered by the proposed buyer);~~
- ~~(3) — we will have an additional 30 days to prepare for closing after notifying you of our election to purchase; and~~
- ~~(4) — we must receive, and you and your Owners agree to make, all customary representations and warranties given by the seller of the assets of a business or the ownership interests in a legal entity, as applicable, including, without limitation, representations and warranties regarding: (a) ownership and condition of and title to ownership interests and/or assets; (b) liens and encumbrances relating to ownership interests and/or assets; and (c) validity of contracts and the liabilities, contingent or otherwise, of the entity whose assets or ownership interests are being purchased.~~

~~We have the unrestricted right to assign this right of first refusal to a third party, who then will have the rights described in this Section.~~

~~If we do not exercise our right of first refusal and otherwise approve the transfer in accordance with the conditions in Sections 13B and 13C above, you or your Owners may complete the sale to the proposed buyer on the original offer's terms.~~

~~If you do not complete the sale to the proposed buyer within 60 days after we notify you that we do not intend to exercise our right of first refusal, or if there is a material change in the terms of the sale (which you agree to tell us promptly), we or our designee will have an additional right of first refusal during the 30 day period following either the expiration of the 60 day period or our receipt of notice of the material change(s) in the sale's terms, either on the terms originally offered or the modified terms, at our or our designee's option.~~

### ~~13. — EXPIRATION OF THIS FRANCHISE AGREEMENT.~~

#### ~~13.A — YOUR RIGHT TO ACQUIRE A SUCCESSOR FRANCHISE.~~

~~Upon expiration of this Franchise Agreement, you will have the option to acquire two additional successive ten-year terms (“Successor Franchise(s)”), provided that:~~

- ~~(1) — you and each of your Owners have fully complied with this Franchise Agreement during its term, which includes satisfying all monetary obligations owed by you to us, our affiliates, or your suppliers or creditors, whether under this Franchise Agreement or otherwise; and~~



- (2) ~~you and each of your Owners (if you are an Entity) are, both on the date you give us written notice of your election to acquire a Successor Franchise (as provided in Section 14B below) and on the date on which the term of the Successor Franchise would commence, in full compliance with this Franchise Agreement; and~~
- (3) ~~(a) you maintain possession of the BEV and, if your BEV has not completed the required remodels or is not in compliance with current standards, pay to us or our affiliate the cost of remodeling and upgrading the BEV and any Additional Equipment, as well as adding or replacing improvements, assets, signage, and otherwise modifying the Travelin' Tom's Coffee Franchise as we require to comply with System Standards then applicable for new Travelin' Tom's Coffee Franchises, or (b) at your option, you secure a substitute BEV and any Additional Equipment we approve and you develop that BEV and any Additional Equipment according to System Standards then applicable for Travelin' Tom's Coffee franchises;~~
- (4) ~~subject to state law, you execute a general release, in a form prescribed by us, of any and all claims which you may have against us and our affiliates and our respective shareholders, directors, employees, and agents in their corporate and individual capacities. Unless otherwise prevented by state law, we will consider your failure to sign the release and to deliver it to us for acceptance and execution within 30 days after it is delivered to you to be an election not to acquire a Successor Franchise;~~
- (5) ~~you execute the then current form of franchise agreement (the "**Successor Franchise Agreement**") and all other agreements, legal instruments, and documents then customarily used by us in the renewal of our franchises. The Successor Franchise Agreement and these other agreements, legal instruments, and documents may vary materially from those agreements, legal instruments, and documents currently in use by us, including the payment of higher and/or additional fees. We have the right to refuse to renew the license granted under this Franchise Agreement if we have given you written notice three or more times for failure to comply with this Franchise Agreement, whether or not such failure is subsequently cured. When you sign the Successor Franchise Agreement, you are not obligated to pay our then current initial franchise fee but you will owe a renewal fee of \$7,500; and~~
- (6) ~~you will pay the highest tier of royalty payment under the new franchise agreement (meaning that you will not be able to take advantage of any step up royalty schedules that may be offered to new franchisees).~~

You acknowledge and agree that if you and each of your Owners are not in full compliance with this Franchise Agreement, both on the date you give us written notice of your election to acquire a Successor Franchise and on the date on which the term of the Successor Franchise commences, we need not grant you a Successor Franchise, regardless of whether we had, or chose to exercise, the right to terminate this Franchise Agreement during its term under Section 15B.

### 13.B — GRANT OF A SUCCESSOR FRANCHISE.

You agree to give us written notice ("**Your Notice**") of your election to acquire a Successor Franchise no more than 12 months and no less than six months before this Franchise Agreement expires. We agree to give you written notice ("**Our Notice**"), not more than six months after we receive Your Notice, of our decision:



- (1) ~~to grant you a Successor Franchise;~~
- (2) ~~to grant you a Successor Franchise on the condition you correct existing deficiencies of the Travelin' Tom's Coffee Franchise or in your operation of the Travelin' Tom's Coffee Franchise;~~

### **23. not to grant you a Successor Franchise based on**

You may terminate this Franchise Agreement if you are in full compliance and we materially breach this Franchise Agreement and fail to cure the breach within 60 days after you send us a written notice specifying the nature of the breach. You may also terminate this Franchise Agreement if you and we mutually agree, in our sole discretion, which may be withheld, in writing to terminate this Franchise Agreement. In such an event, you and we will be deemed to have waived any required notice period. If you terminate this Franchise Agreement, you must still comply with your post-termination obligations described below and all other obligations that survive the expiration or termination of this Franchise Agreement.

### **24. TERMINATION BY US**

The rights to terminate the Franchise Agreement in this Section shall be referred to as our "Termination Rights."

#### **24.1 Automatic Termination Without Notice**

You shall be in default under this Franchise Agreement, and we may automatically terminate all rights granted to you by this Franchise Agreement without notice if (i) you file or cause to be filed a petition in bankruptcy or you are adjudicated bankrupt or judicially determined to be insolvent (subject to any contrary provisions of any applicable state or federal laws); or (ii) you admit to your inability to meet your financial obligations as they become due, or make a disposition for the benefit of its creditors (unless prohibited by law); or (iii) a receiver or custodian (permanent or temporary) is appointed for any of your assets or property; or (iv) a final judgment in excess of \$10,000 against you remains unsatisfied or of record for sixty (60) days or longer (unless a bond is filed or other steps are taken to effectively stay enforcement of such judgment), except that we may provide you with additional time to satisfy the judgment if you demonstrate that you are using commercially reasonable efforts to resolve the issues related to the judgment.

#### **24.2 Option to Terminate Without Opportunity to Cure**

- (3) ~~We may, in our determination you and your Owners have not fully complied with this Franchise Agreement during its term or were not in full compliance with this Franchise Agreement and all System Standards on the date you gave us written notice of your election to acquire a Successor Franchise; or~~
- (4) ~~not grant you a successor because we no longer maintain a franchise program for Travelin' Tom's Coffee franchises.~~

~~If applicable, Our Notice will:~~

- (1) ~~describe the remodeling, expansion, improvements, and/or modifications required to bring the BEV and any Additional Equipment into compliance with then applicable System Standards for new Travelin' Tom's Coffee Franchises; and~~



- (2) ~~state the actions you must take to correct operating deficiencies and the time in which you must correct these deficiencies.~~

~~If we elect not to grant you a Successor Franchise, Our Notice will describe the reasons for our decision. If we elect to grant you a Successor Franchise, your right to acquire a Successor Franchise is subject to your full compliance with all of the terms and conditions of sole discretion, terminate this Franchise Agreement through the date of its expiration, in addition to your compliance with the obligations described in Our Notice.~~

~~If Our Notice states that you must remodel the Travelin' Tom's Coffee Franchise and/or must cure certain deficiencies of the Travelin' Tom's Coffee Franchise or its operation as a condition to our granting you a Successor Franchise, we will give you written notice of our decision not to grant a Successor Franchise, based upon your failure to complete the remodeling and/or to cure those deficiencies, not less than 90 days before immediately upon written notice to you, without opportunity to cure, upon the occurrence of any of the following events, each of which constitute material events of default under this Franchise Agreement expires, provided, however, that we need not give you this 90 days' notice if we decide not to grant you a Successor Franchise due to your breach of this Franchise Agreement during the 90 day period before it expires. We may extend this Franchise Agreement's term for the time period necessary to give you either reasonable time to correct deficiencies or the 90 days' notice of our refusal to grant a Successor Franchise. If you fail to notify us of your election to acquire a Successor Franchise within the prescribed time period, we need not grant you a Successor Franchise.~~

#### ~~14. TERMINATION OF FRANCHISE AGREEMENT.~~

##### ~~14.A. TERMINATION BY YOU.~~

~~If (a) you and your Owners are in full compliance with this Franchise Agreement, (b) and we materially fail to comply with this Franchise Agreement, (c) and we do not correct the failure or otherwise provide reasonable evidence of our efforts to correct such failure within 60 days after you deliver written notice of the material failure to us, then you may terminate this Franchise Agreement, effective upon 30 days' written notice to us.~~

~~Your termination of this Franchise Agreement other than according to this Section 15A will be deemed a termination without cause and a breach of this Franchise Agreement.~~

##### ~~14.B. TERMINATION BY US.~~

~~We may terminate this Franchise Agreement, effective upon delivery of written notice of termination to you, if:~~

- (1) ~~you or any of your Owners have made or make any material misrepresentation or omission in acquiring the Travelin' Tom's Coffee Franchise or operating the Travelin' Tom's Coffee Franchise;~~

~~you do not~~24.2.1 Failure to Open. ~~If you fail to open the Travelin' Tom's Coffee Franchise for business your Franchised Business within three months after of the Effective Date;~~

- (2) ~~your Managing Owner, or, if applicable, Designated Manager and/or other required attendees do not satisfactorily complete the initial training program and you fail to appoint~~

~~a Managing Owner or Designated Manager capable of satisfactorily completing the Initial Training within 30 days of such failure;~~

~~you cease to operate the Travelin' Tom's Business or otherwise~~ 24.2.2 Material Misrepresentation. If you or any Owner commits any fraud or makes any material misrepresentation to us, whether occurring before or after the Effective Date.

24.2.3 Violation of Law. If you fail, for a period of 2 days after having received notification of noncompliance from us or any governmental or quasi-governmental agency or authority, to comply with any federal, state or local law or regulation applicable to the operation of the Franchised Business.

24.2.4 Criminal Offense. If you or any of your Owners, officers, directors, or key employees is convicted of or pleads guilty or nolo contendere to a felony or any other crime or offense that is reasonably likely, in our sole opinion, to adversely affect our reputation, the System, or the Marks, which expressly includes any harm or criminal activity to minors in our sole discretion. If the crime or offense is committed by an Owner other than a Managing Owner, then we may, in our sole discretion, terminate if such Owner fails to sell its ownership interest in the Entity to any of the other Owners within 30 days after the conviction or guilty plea, whichever first occurs.

24.2.5 Under-Reporting. If an audit or investigation discloses that you have knowingly maintained false books or records, or submitted false reports to us, or knowingly understated its Gross Sales or withheld the reporting of same, or, if, on two or more occasions in any single 24 month period, any audits or other investigations reveals an under-reporting or under-recording error of two percent (2%) or more, or on any single occasion any audit or other investigation reveals an under-reporting or under-recording of five percent (5%) or more.

24.2.6 Intellectual Property Misuse. If you misuse or make any unauthorized use of the Marks or Patent, or if you otherwise impair the goodwill of our rights, or you take any action which reflects unfavorably upon the operation and reputation of the Franchised Business, the System, or the Travelin' Tom's brand generally. If your employees or independent contractors engage in any of the same actions described above, unless you shall have exercised your best efforts to prevent such disclosures or use.

24.2.7 Health or Safety Violations. If you manage or operate your Franchised Business in a manner that presents a health or safety hazard to your customers, employees or the public, or your Franchised Business is cited by an authority for improper operation(s) three or more times within any calendar year.

24.2.8 Abandonment. If you abandon the Travelin' Tom's Coffee Franchise or fail to operate your Franchised Business for a period of 12 consecutive months, or any shorter period that indicates an intent by the Franchisee to discontinue operation of the Travelin' Tom's Coffee Franchise, unless and only to the extent that full operation of the Travelin' Tom's Coffee Franchise is suspended or terminated due to fire, flood, earthquake, terrorism, act of God, death or disability of your Managing Owner, or other similar causes beyond the Franchisee's control and not related to the availability of funds to Franchisee; Franchised Business, unless you had received our prior written authorization to do so.

24.2.9 Failure to Pay. If you fail to pay any amount owed to us or an affiliate of ours within ten days after receipt of a demand for payment or you have three or more insufficient funds or returned checks in any one calendar year. If you fail to pay when due any federal or state income, service, sales, or other taxes due on the Franchised Business operation, unless you are in good faith contesting your liability for these taxes.

24.2.10 Unauthorized Transfer. If you attempt to sell, Transfer, encumber or otherwise dispose of any interest in you, this Franchise Agreement or the Franchised Business in violation of Section 16 of this Franchise Agreement.

24.2.11 Unauthorized Disclosure of Confidential Information. If you or any of your Owners knowingly make or attempt to make any transfer in violation of Section 13;any unauthorized use or disclosure of any part of the Brand Manual or any other Confidential Information.

24.2.12 Brand Covenants. If you or any of your Owners are or have been convicted by a trial court of, or plead or have pleaded no contest to, a felony;violates any of the Brand Covenants.

24.2.13 Failure to Maintain Insurance. If you fail to maintain the insurance we require or fail to name us and our affiliates as additional insureds on the required insurance and do not correct the failure within ten days after we deliver written notice of that failure to you;.

- ~~(3) — if you or an Owner commits an action or inaction that can reasonably be expected to adversely affect the reputation of the System or the goodwill associated with the Marks (for purposes of this subsection (8), any allegation of action involving harm or criminal activity involving minors may be deemed, in our sole discretion, to adversely affect the reputation of the System);~~

24.2.14 License/Permits. If a regulatory authority suspends or revokes a license or permit held by you or an Owner that is required to operate the Franchised Business, even if you or the Owner still maintain appeal rights.

24.2.15 Failure to Complete Initial Training. If you or any of your Owners knowingly make any unauthorized use or disclosure of any part of the Brand Manual or any other Confidential Information;

- ~~(5) — you violate any health, safety, or sanitation law, ordinance, or regulation, or operate the Travelin' Tom's Coffee Franchise in an unsafe manner,required attendee fails to attend and do not begin to cure the violation immediately, and correct the violationcomplete the initial training program within three days after you receive notice from us or any other party;~~
- ~~(6) — you violate any other applicable law, regulation, ordinance, or consent decree, or fail to maintain any bond, license, or permit, and do not cure such violation or failure within 48 hours after we or any applicable government agency deliver notice to you of that violation or failure;~~
- ~~(7) — you fail to pay us or our affiliates any amounts due and do not correct the failure within ten days after we deliver written notice of that failure to you;~~
- ~~(8) — you fail to pay when due any federal or state income, service, sales, or other taxes due on the Travelin' Tom's Coffee Franchise operation, unless you are in good faith contesting your liability for these taxes;~~

~~you or any of your Owners (a) fail on three or more separate occasions within any 12 consecutive month~~the time period to comply with prescribed in this Franchise Agreement, whether or not we notify you of the failures, and, if we notify you of the failures, whether or not you correct the failures after our delivery of notice to you; or (b) fail on two or more separate occasions within any 12 consecutive month period to comply with the same obligation under this Franchise Agreement, whether or not we notify you of the failures, and, if we notify you of the failures, whether or not you correct the failures after our delivery of notice to you;

- ~~(9) — you make an assignment for the benefit of creditors or admit in writing your insolvency or inability to pay your debts generally as they become due; you consent to the appointment of a receiver, trustee, or liquidator of all or the substantial part of your property; the Travelin' Tom's Coffee Franchise is attached, seized, subjected to a writ or distress warrant, or levied upon, unless the attachment, seizure, writ, warrant, or levy is vacated within 30 days; or any order appointing a receiver, trustee, or liquidator of you or the Travelin' Tom's Coffee Franchise is not vacated within 30 days following the order's entry;~~
- ~~(10) — you or any of your Owners' assets, property, or interests are blocked under any law, ordinance, or regulation relating to terrorist activities, or you or any of your Owners otherwise violate any such law, ordinance, or regulation;~~
- ~~(11) — you or any of your Owners fail to comply with any other provision of this Franchise Agreement or any System Standard and do not correct the failure within 30 days after we deliver written notice of the failure to you;~~
- ~~(12) — there is a termination of any other franchise agreement or other agreement between you or your affiliates and us or any of our affiliates;~~
- ~~(13) — you have three or more insufficient funds or returned checks in any one calendar year;~~

you24.2.16 Repeated Defaults. If you commit a default of any obligation under this Franchise Agreement and have previously received three or more written notices of default from us within the preceding 12 months, regardless of whether any default is cured, or if you commit the same default twice within the preceding 12-month period.

24.2.17 Cross Default. If we terminate any other agreement between you and us, or if any affiliate of ours terminates any agreement between you and the affiliate because of your default.

24.2.18 Franchise Owner Agreement Default. If any Owner, or the spouse of any Owner, breaches a Franchise Owner Agreement.

24.2.19 Territory Infringement. You commit Territory Infringement three or more times in any 12 consecutive month period;

- ~~(14) — you indicate in writing your intention to consummate any of the preceding actions; or~~
- ~~(15) — your Travelin' Tom's Business is cited by an authority for improper operation(s) three or more times within any calendar year.~~

## **~~15. OUR AND YOUR RIGHTS AND OBLIGATIONS UPON TERMINATION OR EXPIRATION OF THIS FRANCHISE AGREEMENT.~~**

### **~~15.A PAYMENT OF AMOUNTS OWED TO US.~~**

~~You agree to pay us and our affiliate(s) within 15 days after this Franchise Agreement expires or is terminated, or on any later date we determine, the amounts due to us (or our affiliates), the Royalties, Brand Fund Contributions, any outstanding financing for the BEV and any Additional Equipment, interest, and all other amounts owed to us (and our affiliates) which then are unpaid.~~

### **~~15.B DE IDENTIFICATION.~~**

~~When this Franchise Agreement expires or is terminated:~~

- ~~(1) you may not directly or indirectly, at any time or in any manner (except with other Travelin' Tom's Coffee franchises you own and operate), identify yourself or any business as a current or former Travelin' Tom's Coffee franchisee or as one of our current or former franchise owners; use any Mark, any colorable imitation of a Mark, or other indicia of a Travelin' Tom's Coffee Franchise in any manner or for any purpose; or use for any purpose any trade name, trade or service mark, or other commercial symbol that indicates or suggests a connection or association with us;~~
- ~~(2) you agree to take the action required to cancel or assign all fictitious or assumed name or equivalent registrations relating to your use of any Mark;~~

### **24.3 unless Termination with Notice and Opportunity to Cure**

In addition to our Termination Rights, we may, in our sole discretion, terminate this Franchise Agreement upon 30 days' written notice if you or an Owner fails to comply with any other provision of this Franchise Agreement (including failure to comply with any provision in the Brand Manual) or any other agreement with us, unless such default is cured, as determined by us in our sole discretion, within such 30-day notice period, each of which shall constitute a material event of default under this Franchise Agreement. If we deliver a notice of default to you pursuant to this Section, we may suspend performance of any of our obligations under this Franchise Agreement until you fully cure the breach.

## **25. POST TERM OBLIGATIONS**

The obligations contained in this Section shall be referred to as your "Post Term Obligations." After the termination, expiration or Transfer of this Franchise Agreement, you agree to undertake each and every one of the obligations listed in this Section.

### **25.1 Cease Operations**

Immediately cease to be a franchise owner of the Franchised Business under this Franchise Agreement and cease to operate the Franchised Business under the System. You agree to not hold yourself out to the public as a present or former franchise owner of the Franchised Business.

## **25.2 Intellectual Property**

Immediately cease to use the Intellectual Property in any manner whatsoever and not use any trademarks or trade names that may be confusingly similar to the Intellectual Property. You acknowledge and agree that any continued use of the Marks would constitute trademark infringement.

## **25.3 Monetary Obligations**

Pay us all amounts you owe us and our affiliates within 15 days.

## **25.4 Surviving Covenants**

Comply with all covenants described in this Section and otherwise in this Franchise Agreement that apply after the expiration, termination or Transfer of this Franchise Agreement or of an ownership interest by an Owner.

## **25.5 De-Identification**

Unless we exercise our right to purchase under Section 16E26 of this Franchise Agreement, you agree to deliver to us, at your expense, within 30 days of expiration or termination, all signs, sign faces, sign cabinets, marketing materials, forms, and other materials containing any Mark or otherwise identifying or relating to a Travelin' Tom's Coffee Franchise, and to fully decommission the BEV (and any Additional Equipment) by removing all proprietary items and Marks from the BEV (and Additional Equipment) in accordance with Section 3E(7) of this Franchise Agreement and the System Standards.our System Standards, including, but not limited to: all vinyl wraps, internal and external Creation Station components and signage, bottle racks, drip trays, external fins and awnings, LED lighting, menu boards, stickers, decals, KIB display monitor, and scent diffuser. If you fail to do so in the required time period, you agree to allow us, without liability to you or third parties for trespass or any other claim, to take possession of the BEV (and any Additional Equipment,) to remove any signs or other materials containing any Marks from the Travelin' Tom's Coffee FranchiseFranchised Business, and to otherwise modify the BEV (and any Additional Equipment) so as to no longer be identifiable as related to the Travelin' Tom's Coffee Franchise;System.

- (3) — you acknowledge that all telephone numbers, facsimile numbers, social media websites, Internet addresses, and email addresses (collectively “Identifiers”) used in the operation of your Travelin' Tom's Business constitute our assets, and within five days of termination or expiration of this Franchise Agreement, you will take such actions necessary to cancel or assign to us or our designee, as determined in our sole discretion, all of your right, title, and interest in and to such Identifiers and will notify the telephone company and all listing agencies of the termination or expiration of your right to use any Identifiers, including but not limited to any regular, classified, or other telephone directory listings associated with the Identifiers, and to authorize a transfer of the same at our direction. You also hereby agree to take all actions required to cancel all assumed name or equivalent registrations related to your use of the Marks. You acknowledge that we have the sole rights to, and interest in, all Identifiers used by you to promote your Travelin' Tom's Business or that are otherwise associated with the Marks. You hereby irrevocably appoint us, with full power of substitution, as your true and lawful attorney in fact with all powers necessary to execute such directions and authorizations as may be necessary or prudent to accomplish the foregoing. You further appoint us to direct the telephone company, postal service, registrar, Internet Service Provider, listing agency, website operator, or any other third

party to transfer such Identifiers to us or our designee, and such third parties may accept such direction by us pursuant to this Franchise Agreement as conclusive evidence of our rights to the Identifiers and our authority to direct their transfer;

- (4) ~~you agree to give us, within 30 days after the expiration or termination of this Franchise Agreement, evidence satisfactory to us of your compliance with the obligations of this Section 16B; and~~
- (5) ~~you must follow any reasonable procedures established by us to ensure the expiration or termination of this Franchise Agreement creates the least disruption possible to the System, including those procedures set forth in the Brand Manual~~

#### 15.C — CONFIDENTIAL INFORMATION.

~~You agree that when this Franchise Agreement expires or is terminated, you will immediately cease using any of our Confidential Information (including computer software or similar technology and digital passwords and identifications we have licensed to you or that otherwise are proprietary to us or the System) in any business or otherwise and return to us all copies of the Brand Manual and any other confidential materials we have loaned you, as well as any customer data you may have.~~

#### 15.D — COVENANT NOT TO COMPETE.

~~Upon termination, transfer, or expiration of this Franchise Agreement, you and your Owners agree that for two years beginning on (a) the effective date of the termination, transfer, or expiration, or on (b) the date on which all persons restricted by this Section begin to comply with this Section, whichever is later, neither you nor any of your Owners (or your or their spouses) will have any direct or indirect interest as an owner (whether of record, beneficially, or otherwise), investor, partner, director, officer, employee, consultant, representative, or agent in any Competitive Business (as defined in Section 8 above) located at or within (i) a 20-mile radius from your Travelin' Tom's Business; and (ii) a 20-mile radius from all other Travelin' Tom's Businesses that are operating or under development as of the beginning of the Restricted Period.~~

~~These restrictions also apply after transfers, as provided in Section 13C (12) above. If any person restricted by this Section refuses to comply with these obligations, the two-year period for that person will commence with the entry of a court order enforcing this provision. You and your Owners expressly acknowledge that you possess skills and general abilities and have other opportunities for exploiting these skills. Consequently, our enforcing the covenants made in this Section will not deprive you of your personal goodwill or ability to earn a living.~~

~~In the event a court of competent jurisdiction determines that the two-year post term restricted period contained herein is too long to be enforceable, then the post term restricted period shall be for a period of one year beginning on the effective date of termination, transfer, or expiration of this Franchise Agreement.~~

### 25.6 OUR-Branded Items

Return all copies of the Brand Manual, or any portions thereof, as well as all signs, sign faces, brochures, advertising and promotional materials, forms and any other materials bearing or containing any of the



Marks, our copyrights or other identification relating to a Franchised Business, unless we allow you to Transfer such items to an approved transferee.

### **25.7 Technology and Data**

Return all copies of any software we license to you (and delete all such software from your computer memory and storage), provide us the then-current customer list and contracts that your Franchised Business has entered into and transfer all login information and data from any Technology, social media accounts and email addresses from your Franchised Business.

### **25.8 Entity Name**

Ensure that any names or registrations related to your use of the Marks are canceled.

### **25.9 Identifiers and Advertisements**

Immediately stop using all telephone numbers, advertisements, domain names and social media accounts associated with the Franchised Business. Notify all telephone companies, listing agencies, social media companies and domain name registration companies (collectively, the “Agencies”) of the termination or expiration of your right to use the following, and immediately transfer to us: (A) the telephone numbers, accounts and/or domain names, if applicable, related to the operation of your Franchised Business; and (B) any online listings associated with the Marks (you hereby authorize the Agencies to transfer such telephone numbers, domain names and listings to us and you authorize us, and appoint us and any officer we designate as your attorney-in-fact to direct the Agencies to transfer the telephone numbers, domain names and listings to us if you fail or refuse to do so).

### **25.10 Modifications**

Remove all trade dress, equipment, software and property owned by us and make such modifications and alterations that are necessary or that we require to prevent any association between us or the System and any business subsequently operated by you or any third party using any of the inventory, BEV, equipment used in the operation of the Franchised Business; provided, however, that this subsection shall not apply if your Franchised Business is transferred to an approved transferee or if we exercise our right to purchase your entire Franchised Business.

### **Customers**

We may contact customers of your Franchised Business and offer such customers continued rights to use one or more Travelin’ Tom’s franchises on such terms and conditions we deem appropriate, which in no event will include assumption of any then-existing liability arising or relating to those customers or act or failure to act by you or your Franchised Business.

### **25.12 Compliance Evidence**

Provide us with written satisfactory evidence of your compliance with the above obligations within 30 days after the effective date of the termination, expiration or Transfer of this Franchise Agreement.

## **26. RIGHT TO PURCHASE**

### **26.1 Generally**

Upon the expiration or termination of this Franchise Agreement for any reason, we will have the right but not the obligation to purchase from you some or all of the assets used in the Franchised Business (“Acquired Assets”). We may exercise our option to begin this process by giving written notice to you at any time following expiration or termination up until 30 days after the later of: (a) the effective date of expiration or termination; or (b) the date you cease operating the Franchised Business (the “Specified Date”). We have the right to inspect the assets used in the Franchised Business in order to determine which we wish to acquire and any refusal by you to cooperate with our right to inspect will extend the Specified Date by an equal period. The term “Acquired Assets” means, without limitation, equipment, BEV, furnishings, fixtures, signs and inventory (non-perishable products, materials and supplies) used in the Franchised Business, all licenses necessary to operate the Franchised Business (if transferable) and the real estate fee simple or the lease or sublease for the Premises. Customer information and customer lists are owned by us and accordingly are not included within the definition of “Acquired Assets” and must be returned to us without charge upon expiration or termination. You may not sell the information or lists to a third party. We will be entitled to have the provisions in this Section enforced by a court of competent jurisdiction should you fail to meet your obligations. We will have the unrestricted right to assign this option to purchase the Acquired Assets. We or our assignee will be entitled to all customary representations and warranties, including that the Acquired Assets are free and clear (or, if not, accurate and complete disclosure) as to: (1) ownership, condition and title; (2) liens and encumbrances; (3) environmental and hazardous substances; and (4) validity of contracts and liabilities inuring to us or affecting the Acquired Assets, whether contingent or otherwise.

### **26.2 Purchase Price**

The purchase price for the Acquired Assets (“Purchase Price”) will be their fair market value (or, for leased assets, the fair market value of the lease), determined as of the Specified Date in a manner that accounts for reasonable depreciation and condition of the Acquired Assets. The Purchase Price for the Acquired Assets will not factor in the value of any rights granted by this Franchise Agreement, trademark, service mark, or other commercial symbol used in connection with the operation of the Franchised Business, nor any goodwill or “going concern” value for the Franchised Business. We may exclude from the Acquired Assets purchased in accordance with this Section any equipment, BEV, and inventory that are not accepted as meeting then-current standards for a Franchised Business or for which you cannot deliver a Bill of Sale in a form satisfactory to us.

If you and we cannot agree upon a fair market value, we shall appoint an independent, third party appraiser with experience appraising businesses comparable to your Franchised Business in the United States (“Qualified Appraiser”) within 30 days after the Specified Date. We shall pay for 50% of the cost of this Qualified Appraiser, and you shall pay the other 50% of the cost.

The Qualified Appraiser shall appraise the Acquired Assets as described above (“Appraised Value”). If you agree with the Appraised Value, the Appraised Value shall be the Purchase Price. If you disagree with the Appraised Value, upon written notice to us, you may hire an additional Qualified Appraiser at your expense. In such situation, the Qualified Appraiser chosen by you shall appraise the Acquired Assets at fair market value determined as described above. The average of the two values provided by the Qualified Appraisers shall be the Purchase Price.

### **26.3 Access to Franchised Business**

The Qualified Appraiser will be given full access to the Franchised Business, the Premises and your books and records during customary business hours to conduct the appraisal and will value the leasehold improvements, equipment, furnishings, fixtures, signs and inventory in accordance with the standards of this Section.

#### **26.4 Exercise of Option; Operation**

Within 10 days after the Purchase Price has been determined, we may fully exercise our option to purchase the Acquired Assets by notifying you of our decision in writing (“Purchase Notice”). The Purchase Price will be paid in cash or cash equivalents at the closing of the purchase (“Closing”), which will take place no later than 60 days after the date of the Purchase Notice. From the date of the Purchase Notice until Closing, you will operate the Franchised Business and maintain the Acquired Assets in the usual and ordinary course of business and maintain in full force all insurance policies required under this Franchise Agreement. Alternatively, we may require you to close the Franchised Business during that time period without removing any Acquired Assets from the Franchised Business.

#### **26.5 Due Diligence**

For a period of 30 days after the date of the Purchase Notice (“Due Diligence Period”), we will have the right to conduct such investigations as we deem necessary and appropriate. You will grant us and our representatives access to the Franchised Business and the Premises at all reasonable times for the purpose of conducting inspections of the Acquired Assets; provided that such access does not unreasonably interfere with your operations of the Franchised Business.

Prior to the end of the Due Diligence Period, we will notify you in writing of any objections that we have to any finding disclosed in any title to lien search, survey, environmental assessment or inspection. If you cannot or elect not to correct any such title defect, environmental objection or defect in the working condition of the Acquired Assets, we will have the option to either accept the condition of the Acquired Assets as they exist or rescind our option to purchase on or before the Closing.

#### **26.6 Closing**

15.E—We will have the right to set off against and reduce the Purchase Price by any and all amounts owed by you to us or our affiliates, and the amount of any ~~RIGHT TO PURCHASE THE FRANCHISE.~~

(1) — Exercise of Option. Upon any of the following:

- (a) — our termination of this Franchise Agreement according to its terms and conditions;
- (b) — the expiration of this Franchise Agreement; or
- (c) — your termination of this Franchise Agreement;

we have the option, exercisable by giving you written notice within 30 days after the date of termination, to purchase the assets of the Travelin’ Tom’s Coffee Franchise, including, without limitation, the BEV and any Additional Equipment. We have the unrestricted right to assign this option to purchase. If we purchase the Travelin’ Tom’s Coffee Franchise, we are entitled to all customary warranties and representations in our asset purchase, including, without limitation, representations and warranties as to ownership and condition of and title to assets; liens and encumbrances on assets; validity of contracts and agreements; and liabilities affecting the assets, contingent or otherwise.

- (2) ~~liens against the Acquired Assets~~Purchase Price. ~~The purchase price for the Travelin' Tom's Coffee Franchise will be its fair market value, provided these items will not include any value for:~~
- (a) ~~the Travelin' Tom's Coffee Franchise or any rights granted by this Franchise Agreement;~~
  - (b) ~~goodwill attributable to our Marks, brand image, and other intellectual property; or~~
  - (c) ~~participation in the network of Travelin' Tom's Coffee Franchises.~~

~~We may exclude from the assets purchased any assets and supplies that are not reasonably necessary (in function or quality) to the Travelin' Tom's Coffee Franchise operation or that we have not approved as meeting standards for Travelin' Tom's Coffee Franchises, and the purchase price will reflect these exclusions.~~

- (3) ~~Appraisal.~~ If we and you cannot agree on fair market value, fair market value will be determined by an independent appraiser selected obligations assumed by us. We will select the appraiser within 15 days after we notify you that we wish to exercise our purchase option (if you and we have not agreed on fair market value before then). You and we will bear the costs of the appraiser. The appraiser must complete the appraisal within 30 days after. The purchase price will be the independent appraisal amount.
- (4) ~~Closing.~~ We or our assignee will pay the purchase price at the closing, which will take place not later than 60 days after the purchase price is determined, although we or our assignee may decide after the purchase price is determined not to purchase the Travelin' Tom's Coffee Franchise. We may set off against the purchase price, and reduce the purchase price by, any and all amounts you or your Owners owe us or our affiliates. At the closing, you agree to deliver instruments transferring to us or our assignee:
- (a) ~~good and merchantable title to the assets purchased, free and clear of all liens and encumbrances (other than liens and security interests acceptable to us), with all sales and other transfer taxes paid by you;~~
  - (b) ~~all of the Travelin' Tom's Coffee Franchise licenses and permits which may be assigned or transferred;~~
  - (c) ~~the title, or lease, (as applicable) to the BEV and any Additional Equipment; and~~

If you cannot deliver clear title to all of the purchased assets~~Acquired Assets as indicated in this Section, or if there are other unresolved issues, we and you will close the sale through an escrow. You and your Owners further agree to execute general releases, in a form satisfactory to us, of any and all claims against us and our owners, officers, managers, employees, agents, successors, and assigns~~the Closing will be accomplished through an escrow.

## **27. DISPUTE RESOLUTION**

### **27.1 Mediation Requirement**

Except for any “Litigation Exceptions” as defined below, without limiting our Termination Rights, all claims or disputes between you and us or our affiliates arising out of, or in any way relating to, this Franchise Agreement, or any of the parties’ respective rights and obligations arising out of this Franchise Agreement, shall be submitted first to non-binding mediation (“Required Mediation”) prior to a hearing in binding arbitration. Before commencing any mediation against us or our affiliates with respect to any such claim or dispute, you must submit a notice to us, which specifies, in detail, the precise nature and grounds of such claim or dispute. Such mediation shall take place in the city closest to our principal place of business (currently Florence, Kentucky) under the auspices of the American Arbitration Association (“AAA”), or other mediation service acceptable to us in our sole discretion, in accordance with AAA’s Commercial Mediation Procedures then in effect. Such mediation shall be concluded within 60 days of the issuance of your request, or such longer period as we may agree upon. You may not commence any action against us or our affiliates with respect to any such claim unless mediation proceedings have been terminated either: (i) as the result of a written declaration of the mediator(s) that further mediation efforts are not worthwhile; or (ii) as a result of a written declaration by us. The parties shall each bear their own costs of mediation and shall share equally the filing fee imposed by AAA and the mediator’s fees. We reserve the right to specifically enforce our right to mediation.

#### 15.F — ~~Arbitration~~ CONTINUING OBLIGATIONS.

~~All of our and your and your Owners’ obligations which expressly or by their nature survive this Franchise Agreement’s expiration or termination will continue in full force and effect subsequent to and notwithstanding its expiration or termination and until they are satisfied in full or expire by their nature.~~

#### 16. — ~~RELATIONSHIP OF THE PARTIES/INDEMNIFICATION.~~

##### 16.A — ~~INDEPENDENT CONTRACTORS.~~

~~You and we understand and agree that this Franchise Agreement does not create a fiduciary relationship between you and us, that you and we are and will be independent contractors, and that nothing in this Franchise Agreement is intended to make either you or us a general or special agent, joint venturer, partner, or employee of the other for any purpose. You agree to identify yourself conspicuously in all public records, letterhead, and business forms, and in all dealings with customers, suppliers, public officials, Travelin’ Tom’s Coffee Franchise personnel, and others, as the Travelin’ Tom’s Coffee Franchise owner under a franchise we have granted, and to place notices of independent ownership on the BEV and any Additional Equipment and on the forms, business cards, stationery, advertising, and other materials we require from time to time. You will use your legal name on all documents for use with employees and contractors, including but not limited to, employment applications, time cards, pay checks, and employment and independent contractor agreements, and will not use the Marks on these documents. Upon our request, you and each employee will sign an employment relationship acknowledgment form within seven days stating that you alone are the employer and operate the Travelin’ Tom’s Business.~~

##### 16.B — ~~NO LIABILITY FOR ACTS OF OTHER PARTY.~~

~~We and you may not make any express or implied agreements, warranties, guarantees, or representations, or incur any debt, in the name or on behalf of the other or represent our respective relationship is other than franchisor and franchise owner. You acknowledge that we have no responsibility to ensure that the Travelin’ Tom’s Business is developed and operated in compliance with all applicable laws and regulations, and we will not be obligated for any damages to any person or property directly or~~

~~indirectly arising out of the Travelin' Tom's Coffee Franchise operation or the business you conduct under this Franchise Agreement.~~

#### ~~16.C — TAXES.~~

~~We will have no liability for any sales, use, service, occupation, excise, gross revenue, income, property, or other taxes, whether levied upon you or the Travelin' Tom's Coffee Franchise, due to the business you conduct (except for our income taxes). You are responsible for paying these taxes and must reimburse us for any taxes we must pay to any state taxing authority on account of either your operation or payments you make to us.~~

#### ~~16.D — INDEMNIFICATION.~~

~~You agree to indemnify, defend, and hold harmless us, our affiliates, and our and their respective shareholders, directors, officers, employees, agents, successors, and assignees (the "**Indemnified Parties**") against, and to reimburse any one or more Indemnified Parties for, all claims, obligations, and damages directly or indirectly arising out of the Travelin' Tom's Coffee Franchise operation, the business you conduct under this Franchise Agreement, your employment or contractual relationship with your employees or independent contractors, any loss of data (including customer information) resulting from a breach of such data caused in any part by you or your negligence, or your breach of this Franchise Agreement, including, without limitation, those alleged to be or found to have been caused by the Indemnified Party's negligence, as well as any fees, costs, or liabilities incurred by us on your behalf, including fees and costs incurred by us to recover amounts due to you on your behalf, unless (and then only to the extent that) the claims, obligations, or damages are determined to be caused solely by our gross negligence or willful misconduct in a final, unappealable ruling issued by a court or arbitrator with competent jurisdiction.~~

~~For purposes of this indemnification, "claims" include all obligations, damages (actual, consequential, or otherwise), and costs that any Indemnified Party reasonably incurs in defending any claim against it, including, without limitation, reasonable accountants', arbitrators', attorneys', and expert witness fees, costs of investigation and proof of facts, court costs, travel and living expenses, and other expenses of litigation, arbitration, or alternative dispute resolution, regardless of whether litigation, arbitration, or alternative dispute resolution is commenced. Each Indemnified Party may defend any claim against it and agree to settlements or take any other remedial, corrective, or other actions and such actions will affect your obligation to indemnify under this Section.~~

~~This indemnity will continue in full force and effect, subsequent to and notwithstanding this Franchise Agreement's expiration or termination. An Indemnified Party need not seek recovery from any insurer or other third party, or otherwise mitigate its losses and expenses, to maintain and recover fully a claim for indemnity under this Section. You agree that a failure to pursue a recovery or mitigate a loss will not reduce or alter the amounts that an Indemnified Party may recover under this Section.~~

~~We will indemnify you against, and reimburse you for (1) all damages for which you are held liable in any judicial or administrative proceeding arising out your use of any Mark or Patent in compliance this Franchise Agreement; and (2) the costs in defending any claim brought against Franchisee or in any proceeding in which Franchisee is named as a party arising out of Franchisee's use of any Mark or Patent in compliance with this Franchise Agreement, provided you have timely notified us of the claim or proceeding and have complied with this Franchise Agreement.~~



~~The indemnification obligations under this Section 17D shall expressly survive any termination, expiration, or non-renewal of this Franchise Agreement.~~

## ~~17. — ENFORCEMENT.~~

### ~~17.A — SECURITY INTEREST.~~

~~As security for the performance of your obligations under this Franchise Agreement, you grant us a security interest in all of the assets of the Travelin' Tom's Coffee Franchise, including but not limited to the BEV and any Additional Equipment, inventory, fixtures, furniture, equipment, accounts, supplies, contracts, proceeds, and products of all those assets. You understand that we may make all required UCC filings to perfect our security interest in the assets of the Travelin' Tom's Coffee Franchise. You agree to execute such other documents as we may reasonably request to further document, perfect, and record our security interest. If you default on any of your obligations under this Franchise Agreement, we may exercise all rights of a secured creditor granted to us by law, in addition to our other rights under this Franchise Agreement and at law. If you are required to finance the initial purchase of any asset of your Travelin' Tom's Business by a third-party lender (the "**Initial Lender**"), you must give us notice of the same. If the Initial Lender requires we subordinate our security interest in the assets of the Travelin' Tom's Coffee Franchise as a condition to lending you working capital for the operation of the Travelin' Tom's Coffee Franchise, we will agree to subordinate under terms and conditions determined by us. You are not permitted to obtain any additional loans (other than the initial loan with the Initial Lender) unless you obtain our prior written approval. The provisions of this Section are subject to applicable state law, including state franchise laws.~~

### ~~17.B — SEVERABILITY AND SUBSTITUTION OF VALID PROVISIONS.~~

~~Except as expressly provided to the contrary in this Franchise Agreement, each section, paragraph, term, and provision of this Franchise Agreement is severable, and if, for any reason, any part is held to be invalid or contrary to or in conflict with any applicable present or future law or regulation in a final, unappealable ruling issued by any court, agency, or tribunal with competent jurisdiction, that ruling will not impair the operation of, or otherwise affect, any other portions of this Franchise Agreement, which will continue to have full force and effect and bind the parties.~~

~~If any covenant which restricts competitive activity is deemed unenforceable by virtue of its scope in terms of area, business activity prohibited, and/or length of time, but would be enforceable if modified, you and we agree that the covenant will be enforced to the fullest extent permissible under the laws and public policies applied in the jurisdiction whose law determines the covenant's validity.~~

~~If any applicable and binding law or rule of any jurisdiction requires more notice than this Franchise Agreement requires of this Franchise Agreement's termination or of our refusal to enter into a Successor Franchise Agreement, or some other action this Franchise Agreement does not require, or if, under any applicable and binding law or rule of any jurisdiction, any provision of this Franchise Agreement or any System Standard is invalid, unenforceable, or unlawful, the notice and/or other action required by the law or rule will be substituted for the comparable provisions of this Franchise Agreement, and we may modify the invalid or unenforceable provision or System Standard to the extent required to be valid and enforceable or delete the unlawful provision in its entirety. You agree to be bound by any promise or covenant imposing~~



the maximum duty the law permits which is subsumed within any provision of this Franchise Agreement, as though it were separately articulated in and made a part of this Franchise Agreement.

#### 17.C — WAIVER OF OBLIGATIONS.

We and you may by written instrument unilaterally waive or reduce any obligation of or restriction upon the other under this Franchise Agreement, effective upon delivery of written notice to the other or another effective date stated in the notice of waiver. Any waiver granted will be without prejudice to any other rights we or you have, will be subject to continuing review, and may be revoked at any time and for any reason effective upon delivery of ten days' prior written notice.

We and you will not waive or impair any right, power, or option this Franchise Agreement reserves (including, without limitation, our right to demand exact compliance with every term, condition, and covenant or to declare any breach to be a default and to terminate this Franchise Agreement before its term expires) because of any custom or practice at variance with this Franchise Agreement's terms; our or your failure, refusal, or neglect to exercise any right under this Franchise Agreement or to insist upon the other's compliance with this Franchise Agreement, including, without limitation, any System Standard; our waiver of or failure to exercise any right, power, or option, whether of the same, similar, or different nature, with other Travelin' Tom's Coffee franchises; the existence of franchise agreements for other Travelin' Tom's Coffee franchises which contain provisions different from those contained in this Franchise Agreement; or our acceptance of any payments due from you after any breach of this Franchise Agreement. No special or restrictive legend or endorsement on any check or similar item given to us will be a waiver, compromise, settlement, or accord and satisfaction. We may remove any legend or endorsement, which then will have no effect.

**27.2 Neither we nor you shall be liable for loss or damage or deemed to be in breach of this Franchise Agreement if our or your failure to perform our or your obligations results from any event of force majeure. Any delay resulting from an event of force majeure will extend performance accordingly or excuse performance, in whole or in part, as may be reasonable under the circumstances. No party shall be liable for any delay in the fulfillment of or failure to fulfill its obligations in whole or in part (other than the payment of money as may be owed by a party) under this Franchise Agreement where the delay or failure is solely due to force majeure, as described below. In the event of force majeure, the parties' obligations shall be extended or relieved only to the extent the parties are respectively necessarily prevented or delayed in such performance during the period of such force majeure. As used in this Franchise Agreement, the term "force majeure" shall mean any act of God, strike, lock-out or other industrial disturbance, war (declared or undeclared), terrorist event, riot, epidemic, fire or other catastrophe, act of any government and any other similar cause which is beyond the party's control and cannot be overcome by use of normal commercial measures.**

If the parties cannot fully resolve and settle a dispute through Required Mediation, all unresolved issues involved in the dispute shall be, at the request of either party, submitted to final and binding arbitration to be conducted in the city closest to our principal place of business (currently Florence, Kentucky) by AAA (if AAA or any successor thereto is no longer available for arbitration in such city, you and we will agree on another arbitration organization to conduct the arbitration proceeding), in accordance with AAA's Force Majeure should be construed narrowly and does not include general economic, market or societal conditions, or any changes thereto, even those that are the direct or indirect result of the force

~~majeure event. The party whose performance is affected by an event of force majeure shall give prompt notice of such force majeure event to the other party, which in no case shall be more than 48 hours after the event, setting forth the nature thereof and an estimate as to its duration, and the affected party shall furnish the other party with periodic reports regarding the progress of the force majeure event. Each party must use its best efforts to mitigate the effect of the event of force majeure upon its performance of the Agreement and to fulfill its obligations under the Franchise Agreement. Upon completion of the event of force majeure, the party affected must as soon as reasonably practicable recommence the performance of its obligations under this Franchise Agreement. However, in the event the force majeure continues for a period of six months or more, then the unaffected party may, at its option, terminate this Franchise Agreement by 30 days' written notice to the party asserting such force majeure. An event of force majeure does not relieve a party from liability for an obligation which arose before the occurrence of the force majeure event, nor does that event affect any obligation to pay money owed under the Franchise Agreement or to indemnify us, whether such obligation arose before or after the force majeure event. An event of force majeure shall not affect Franchisee's obligations to comply with any restrictive covenants in this Franchise Agreement during or after the force majeure event.~~

#### ~~17.D — COSTS AND ATTORNEY FEES.~~

~~You shall pay all costs and expenses (including reasonable fees of attorneys and other engaged professionals) incurred by us in successfully enforcing, issuing notices of default, or obtaining any remedy arising from the breach of this Franchise Agreement, including for both arbitration and state and federal court actions. The existence of any claims, demands, or actions which you may have against us, whether arising from this Franchise Agreement or otherwise, shall not constitute a defense to our enforcement of any representations, warranties, covenants, agreements or obligations herein against you or your Owners. The prevailing party in any arbitration or litigation arising out of or relating to this Franchise Agreement shall be entitled to recover from the other party all damages, costs, and expenses, including court costs and reasonable attorney fees, incurred by the prevailing party in successfully enforcing any provision of this Franchise Agreement.~~

#### ~~17.E — RIGHTS OF PARTIES ARE CUMULATIVE.~~

~~Our and your rights under this Franchise Agreement are cumulative, and our or your exercise or enforcement of any right or remedy under this Franchise Agreement will not preclude our or your exercise or enforcement of any other right or remedy which we or you are entitled by law to enforce.~~

#### ~~17.F — MEDIATION.~~

~~Except as otherwise provided in this Franchise Agreement, any claim or controversy arising out of or related to this Franchise Agreement, or the making, performance, breach, interpretation, or termination thereof shall first be subject to non-binding mediation in the city and state of our principal business address, which is currently in Florence, Kentucky. Mediation shall not defer or suspend our exercise of any termination right under Sections 15 and 16. Non-binding mediation hereunder shall be concluded within 60 days of the issuance of the request, or such longer period as may be agreed upon by the parties in writing ("**Mediation Termination Date**"). All aspects of the mediation process shall be treated as confidential, shall not be disclosed to others, and shall not be offered or admissible in any other proceeding or legal action whatsoever. The parties shall bear their own costs of mediation, and shall share equally in the cost of the mediator or mediation service. Mediation under this Section is not intended to alter or suspend the rights or obligations of the parties under this Franchise Agreement or to determine the validity or effect of~~

~~any provision of this Franchise Agreement but is intended to furnish the parties an opportunity to resolve disputes amicably, expeditiously, and in a cost effective manner on mutually acceptable terms. The non-binding mediation provided for hereunder shall be commenced by the party requesting mediation giving written notice of the request for mediation to the party with whom mediation is sought. The request shall specify with reasonable particularity the matters for which non-binding mediation is sought. Non-binding mediation hereunder shall be conducted by a mediator or mediation program designated by us in writing. We shall make the designation within a reasonable time after issuance of the request.~~

#### 17.G — BINDING ARBITRATION.

~~Except for claims under Section 18K, any dispute or controversy arising out of or relating to this Franchise Agreement not settled by informal negotiations or mediation will, at the request of either party, be settled by final and binding arbitration conducted in the city and state of our principal business address, which is currently in Florence, Kentucky, in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association or its successor organization (the “AAA”) and otherwise as set forth below on an individual basis (not a class action). (“Required Arbitration”).~~

In any arbitration proceeding, each party will submit or file any claim that would constitute a compulsory counterclaim as defined by the Federal Rules of Civil Procedure within the same proceeding as the claim it relates to. Any claim that is not submitted or filed as required is forever barred. Except for claims excluded from mediation and arbitration herein, the arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability, or formation of this Franchise Agreement, including, but not limited to, any claim that all or any part of this Franchise Agreement is void or voidable.

Neither 27.2.1 Notice of Arbitration. ~~Either party may initiate arbitration prior to the Mediation Termination Date. Following the Mediation Termination Date, either party may initiate the an arbitration proceeding by making a written demand to the other. Both party, and both parties will then be obligated to engage in arbitration. The demand for arbitration must be served on the other party within the period provided by Section 18M the applicable statute of limitations, and must contain a statement setting forth the nature of the dispute, the amount involved, if any, and the remedies sought. A demand for arbitration will not operate to stay, postpone, or rescind the effectiveness of any termination of this Franchise Agreement. Arbitration will not proceed until any protest of arbitrability is resolved by the arbitrator or by an appropriate court, if necessary.~~

27.2.2 Selection of Arbitrator. Arbitration will be conducted before a single, neutral arbitrator who is familiar with legal disputes of the type at issue and who has at least 10 years’ experience as a lawyer or in the franchise business, or contract experience. The parties will mutually agree on the selection of the arbitrator; however, if the parties have not agreed on the selection of an arbitrator within 30 days after the arbitration demand, either party may request the AAA or successor organization, to appoint a qualified arbitrator. ~~Within 10~~

27.2.3 Discovery. All discovery must be completed within 60 days after following appointment of the an arbitrator, unless otherwise agreed by the parties ~~will meet with the arbitrator, in person or by telephone, for a preliminary conference. At the preliminary conference, the parties. Depositions will establish the extent of and schedule for discovery, including the production of relevant documents, identification of witnesses, be limited to a maximum of five per party and will be held within 30 days after making a request. Additional depositions, and the stipulation of uncontested facts. At this preliminary conference, the date for the hearing will be set. At the preliminary conference, the arbitrator may be scheduled only with the permission of the arbitrator and for good cause shown. Each deposition will set forth the procedures to be followed at the hearing, be limited to a maximum of six hours duration.~~

Should a dispute arise over the extent of or propriety of any discovery request, the arbitrator will make a final determination after hearing each party's position.

27.2.4 Statement of Case. At least ~~5~~five days before the scheduled hearing, each party must deliver to the arbitrator and to the other party a written summary of its position on the issues in dispute.

27.2.5 Arbitrator's Decision. The arbitrator will issue a written decision within ~~10~~ten days after conclusion of the hearing, explaining the basis for the decision. Judgment upon the decision rendered by the arbitrator may be entered in any court having jurisdiction. This decision will be binding upon both parties. The arbitrator will have authority to assess actual damages sustained by reason of any breach or wrongful termination of this Franchise Agreement, including monetary damages and interest on unpaid amounts from date due, specific performance, injunctive and declaratory relief, and legal fees and costs, but will not have any authority to amend or modify the terms of this Franchise Agreement or to assess exemplary or punitive damages ~~or treble damages.~~ Except for claims excluded from mediation and arbitration herein, the arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability or formation of this Franchise Agreement including, but not limited to any claim that all or any part of this Franchise Agreement is void or voidable.

27.2.6 Time Schedule. Any award will be made within nine months of the filing of the notice of intention to arbitrate and the arbitrator will agree to comply with this schedule before accepting appointment. The parties will use due diligence to meet the foregoing time schedule, and the arbitrator will have the right to impose appropriate sanctions against any party who fails to comply with the agreed-upon time schedule. ~~The parties will use due diligence to meet the foregoing time schedule, and the arbitrator will have the right to impose appropriate sanctions against any party who fails to comply with the agreed-upon time schedule.~~ The arbitrator will use his best efforts to comply with the foregoing time schedule, but may unilaterally modify it if, in his opinion, modification is necessary for a proper and just resolution of the dispute. The parties may jointly modify the agreed-upon time schedule, subject to the arbitrator's approval.

27.2.7 Arbitration Expenses. The fees ~~charged by~~of, and authorized costs incurred by, the arbitrator will be shared equally by the parties, and each party will bear all of its own costs of arbitration; provided, however, that the arbitration decision will provide that the substantially prevailing party will recover from the other party its actual costs and expenses (including arbitrator's fees and expenses, and attorney fees and expenses) incurred in connection with the dispute.

~~The entire arbitration proceedings and related documents are confidential. Except as necessary to enforce the decision of the arbitrator hereunder, all conduct, statements, promises, offers, views, and opinions, whether oral or written, made in the course of the arbitration by any of the parties, their agents, employees, or representatives, and the arbitrator, are confidential. These matters will not be discoverable or admissible for any purposes, including impeachment, in any litigation or other proceeding involving the parties, and will not be disclosed to anyone who is not an agent, employee, expert witness, or representative for any of the parties; however, evidence otherwise discoverable or admissible is not excluded from discovery or admission as a result of its use in the arbitration.~~

~~This provision does not apply to any government agency.~~

~~17.H GOVERNING LAW.~~

<p><b>27.3 All matters relating to arbitration will be governed by the Federal Disputes Not Subject to Mediation or Arbitration</b></p>
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If any of the following exceptions occur, either party may immediately file a lawsuit in accordance with this Section without going through the Required Mediation or Required Arbitration (for purposes of this Franchise Agreement, the following shall be referred to as the “Litigation Exceptions”): ~~Arbitration Act (9 U.S.C. §§ 1 et seq.). Except to the extent governed by the Federal Arbitration Act, the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.), or other federal law, this Franchise Agreement, the Travelin’ Tom’s Coffee Franchise, and all claims arising from the relationship between us and you will be governed by the laws of the State of Kentucky, without regard to its conflict of laws rules except that the Kentucky Business Opportunity Investment Act shall not apply if your Travelin’ Tom’s Coffee Franchise is located outside the State of Kentucky.~~

#### 17.I — CONSENT TO JURISDICTION.

Subject to Sections 18F and 18G above and the provisions below, we, you, and your Owners agree that all actions arising under this Franchise Agreement or otherwise as a result of the relationship between you and us must be commenced in the state or federal court of general jurisdiction which is closest to where our principal office then is located (currently Florence, Kentucky), and we and you (and each Owner) irrevocably consent to the jurisdiction of those courts and waive any objection to either the jurisdiction of or venue in those courts. Nonetheless, we and you and your Owners agree that any of us may enforce any arbitration orders and awards in the courts of the state or states in which you are domiciled or the Travelin’ Tom’s Coffee Franchise is located. These provisions are subject to applicable state law.

#### 17.J — WAIVER OF PUNITIVE DAMAGES AND JURY TRIAL.

Except for your obligation to indemnify us for third party claims under Section 17D, and except for punitive damages available to either party under federal law, we, you, and your Owners waive to the fullest extent permitted by law any right to or claim for any punitive or exemplary damages against the other and agree that, in the event of a dispute between us and you, the party making a claim will be limited to equitable relief and to recovery of any actual damages it sustains.

We and you irrevocably waive trial by jury in any action, proceeding, or counterclaim, whether at law or in equity, brought by either of us.

#### 17.K — PROVISIONAL REMEDIES.

Nothing in this Franchise Agreement bars our right to obtain specific performance of this Franchise Agreement, injunctive relief from a court of competent jurisdiction, and/or other provisional relief, including but not limited to: (i) enforcement of liens, security agreements, or attachment, as we deem to be necessary or appropriate to compel you to comply with your obligations to us and/or to protect the Marks, Patent, trade secrets, copyrighted materials, intellectual property, or Confidential Information; (ii) any claim or dispute involving or contesting the validity of any of the Marks, Patent, trade secrets, copyrighted materials, intellectual property, or Confidential Information; (iii) alleged violations of federal or state antitrust laws; (iv) the right to indemnification or the manner in which it is exercised, any claim or controversy arising out of or related to this Franchise Agreement, or the making, performance, breach, interpretation, or termination thereof, (iv) relief against threatened or actual conduct that has or will cause us, the Marks, the Patent, the Confidential Information, and/or the System loss or damage; (v) any of the restrictive covenants contained in this Franchise Agreement; or (vi) enforcement of any of the post-termination obligations under this Franchise Agreement. ~~You agree we may obtain such specific performance or injunctive or provisional relief in addition to such further or other relief as may be available~~

at law or in equity. You agree that we will not be required to post a bond to obtain such specific performance or injunctive or provisional relief

#### **27.4 Venue**

All disputes and that your only remedy if an injunction is entered against you will be the dissolution of that injunction, if warranted, upon due hearing (all claims for damages by injunction being expressly waived hereby). The prevailing party shall be entitled to recover its costs must be mediated, arbitrated and reasonable attorney fees incurred by it in obtaining such relief. The parties expressly agree that the venue for such litigation shall be the state or federal courts located in the city, if applicable, litigated in the principal city (and, if applicable, court) closest to our principal place of business (currently Florence, Kentucky); provided however that we may obtain such relief that for claims brought under the Litigation Exceptions, we have the option to bring suit against you in any state or federal court with proper within the jurisdiction where your Franchised Business is or was located, or where any of your owners lives. The parties consent to the exercise of personal jurisdiction over them by these courts, and to the propriety of venue in these courts for the purpose of this Section 18K Franchise Agreement, and the parties waive any objections that they would otherwise have in this regard. Each of the parties specifically waives any defense of inconvenient forum, and waives any bond, surety, or other security that might be required of any other party with respect to venue.

#### **27.5 Fees and Costs**

If you breach any term of this Franchise Agreement or any other agreement with us or an affiliate of ours, you agree to reimburse us for all reasonable attorneys' fees and other expenses we incur relating to such breach, regardless of whether the breach is cured prior to the commencement of any dispute resolution proceedings.

If we or you must enforce this Franchise Agreement in an arbitration or judicial proceeding, the substantially prevailing party will be entitled to reimbursement of its costs and expenses, including reasonable fees for accountants, attorneys, and expert witnesses, costs of investigations and proof of facts, court costs, travel and living expenses, and other dispute-related expenses.

If there is a mixed decision involving an award of money or money equivalent and equitable relief, the arbitrator will award the above fees to the party that it deems has substantially prevailed over the other party using reasonable business and arbitrator's judgment. We reserve the right, but have no obligation, to advance your share of the costs of any arbitration proceeding for such arbitration proceeding to take place, and by doing so will not be deemed to have waived or relinquished our right to seek recovery of those costs in accordance with this Section. If either party commences any legal action or proceeding in any court in contravention of the terms of this Section, that party shall pay all costs and expenses that the other party incurs in the action or proceeding, including, without limitation, costs and attorneys' fees as described in this Section.

#### **27.6 Jury Trial, Class Action and Punitive Damages Waiver**

WE AND YOU IRREVOCABLY WAIVE: (I) TRIAL BY JURY IN ANY PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR EQUITY, REGARDLESS OF WHICH PARTY BRING SUIT; (II) THE RIGHT TO ARBITRATE OR LITIGATE ON A CLASS ACTION BASIS IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THE PARTIES; AND (III) ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER.



### **27.7 Limitation of Actions and Waiver of Punitive Damages**

We and you agree that any legal action of any kind by a party arising out of or relating to this Franchise Agreement or a default of this Franchise Agreement must be commenced within one (1) year from the occurrence of the facts giving rise to any such claim or action or such claim or action will be barred provided, however, that the forgoing limitation shall not apply where required by applicable law, to the parties indemnification obligations under this Franchise Agreement or to the Litigation Exceptions. You and we, for yourselves, ourselves and on behalf of the Owners respectively, hereby waive to the fullest extent permitted by applicable law, any right to, or claim for, punitive or exemplary damages against the other, and agree that except to the extent provided to the contrary in this Franchise Agreement, in the event of a dispute you and we shall each be limited to recovering only the actual damages proven to be sustained any legal action of any kind.

### **27.8 Confidentiality**

Except as required by applicable law, including the required disclosure in our franchise disclosure document, the entire mediation, arbitration or litigation proceedings and related documents are confidential. Except as necessary to enforce the decision of the arbitrator hereunder, all conduct, statements, promises, offers, views and opinions, whether oral or written, made in the course of the arbitration by any of the parties, their agents, employees or representatives and by the arbitrator, are confidential. These matters will not be discoverable or admissible for any purposes, including impeachment, in any litigation or other proceeding involving the parties, and will not be disclosed to anyone who is not an agent, employee, expert witness, or representative for any of the parties; however, evidence otherwise discoverable or admissible is not excluded from discovery or admission as a result of its use in the arbitration.

### **27.9 Acknowledgment**

The parties acknowledge that nothing herein shall delay or otherwise limit our Termination Rights. A notice or request for arbitration or mediation will have no effect on the status of any demand for performance or notice of termination under this Franchise Agreement.

### **27.10 Survival**

We and you agree that the provisions of this Section shall apply during the Term of this Franchise Agreement and following the termination, expiration, Transfer or non-renewal of this Franchise Agreement. You agree to fully perform all obligations under this Franchise Agreement during the entire mediation, arbitration or litigation process.

## **28. SECURITY INTEREST**

You grant to us a security interest ("Security Interest") in all of the furniture, fixtures, the BEV (and any Additional Equipment), equipment, signage and real estate (including your interests under all real property and personal property leases and all improvements to real estate) of the Franchised Business, together with all similar property now owned or hereafter acquired, including additions, substitutions, replacements, proceeds and products thereof, wherever located, used in connection with the Franchised Business.

You are prohibited from granting a security interest in the Franchised Business or in any of your assets without our prior written consent, which shall not be unreasonably withheld. We may take a subordinate position in the security interest if a Small Business Administration-participating or third-party lender



requires a first or senior lien, and the appropriate subordination documentation is executed by all parties. This security interest shall be security for any and all Royalties, damages, expenses or other sums owed to us hereunder and for any other amounts you owe to us. You agree to execute any documents, including but not limited to, a UCC-1 (or replacements or extensions for the UCC-1) that we reasonably believe to be necessary to perfect said security interest prior to the opening of the Franchised Business, and hereby appoint us as its attorney-in-fact for the purpose of executing such documents should you fail to do so. Except with respect to your sales of inventory in the ordinary course of business, you shall not sell, transfer, lease, sublease, assign, remove, waste, destroy, encumber or relocate any of the property described herein as subject to our security interest. Further, you shall take no other action which interferes with our security interest in said property, unless and until we release our security interest in the same.

## **29. GENERAL PROVISIONS**

### **29.1 Governing Law**

Except as governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §§ 1051, et seq.), this Franchise Agreement and the franchise relationship shall be governed by the laws of the State Kentucky (without reference to its principles of conflicts of law), but any law of that State that regulate the offer and sale of franchises or business opportunities or governs the relationship of a franchisor and its franchisee will not apply unless its jurisdictional requirements are met independently without reference to this Section.

### **29.2 Relationship of the Parties**

You understand that you are an independent contractor and are not authorized to make any contract, agreement, warranty or representation or create any obligation on our behalf under this Franchise Agreement. You understand and agree that nothing in this Franchise Agreement creates a fiduciary relationship between you and us or is intended to make either party a general or special agent, legal representative, subsidiary, joint venture, partner, employee or servant of the other for any purpose. During the Term, you must conspicuously identify yourself at your base of operations, and in all dealings with third parties, as a franchisee of ours and the independent owner of your Franchised Business. You agree to place such other notices of independent ownership on such forms, stationery, advertising, business cards and other materials as we may require from time to time. Neither we nor you are permitted to make any express or implied agreement, warranty or representation, or incur any debt, in the name of or on behalf of the other, or represent that our relationship is other than franchisor and franchisee. In addition, neither we nor you will be obligated by or have any liability under any agreements or representations made by the other that are not expressly authorized by this Franchise Agreement. You further agree that fulfillment of any and all of our obligations written in the Franchise Agreement, or based on any oral communications which may be ruled to be binding in a court of law, shall be our sole responsibility and none of our owners, officers, agents, representatives, nor any individuals associated with us shall be personally liable to you for any reason.

### **29.3 Severability and Substitution**

Each section, subsection, term and provision of this Franchise Agreement, and any portion thereof, shall be considered severable. If any applicable and binding law imposes mandatory, non-waivable terms or conditions that conflict with a provision of this Franchise Agreement, the terms or conditions required by such law shall govern to the extent of the inconsistency and supersede the conflicting provision of this Franchise Agreement. If a court concludes that any promise or covenant in this Franchise Agreement is unreasonable and unenforceable, including without limitation, the Brand Covenants: (i) the court may

modify such promise or covenant to the minimum extent necessary to make such promise or covenant enforceable; or (ii) we may unilaterally modify such promise or covenant to the minimum extent necessary to make such promise or covenant enforceable and consistent with the original intent of the parties (i.e., to provide maximum protection for us and to effectuate your obligations under the Franchise Agreement to the fullest extent permitted by law), and you agree to be bound by the modified provisions.

#### **29.4 Waivers**

We and you may, by written instrument, unilaterally waive or reduce any obligation of or restriction upon the other. Any waiver granted by us shall apply only to the specifically waived provisions and shall not affect any other rights we may have. We and you shall not be deemed to have waived or impaired any right, power or option reserved by this Franchise Agreement (including the right to demand exact compliance with every term, condition and covenant in this Franchise Agreement, or to declare any breach of this Franchise Agreement to be a default, and to terminate the Franchise Agreement before the expiration of its Term) by virtue of: (i) any custom or practice of the parties that varies with the terms of this Franchise Agreement; (ii) any failure, refusal or neglect of us or you to exercise any right under this Franchise Agreement or to insist upon exact compliance by the other with its obligations under this Franchise Agreement, including any mandatory specification, standard or operating procedure; (iii) any waiver, forbearance, delay, failure or omission by us to exercise any right, power or option, whether of the same, similar or different nature, relating to other Travelin' Tom's franchisees; or (iv) the acceptance by us of any payments due from you after breach of this Franchise Agreement.

#### **29.5 Approvals**

Whenever this Franchise Agreement requires our approval, you must make a timely written request for approval, and the approval must be in writing in order to bind us. Except as otherwise expressly provided in this Franchise Agreement, if we fail to approve any request for approval within the required period of time, we shall be deemed to have denied your request. If we deny approval and you seek legal redress for the denial, the only relief to which you may be entitled is to acquire our approval. Except where this Franchise Agreement states that we may not unreasonably withhold our approval or consent, we may withhold such approval or consent, in our sole discretion. You are not entitled to any other relief or damages for our denial of approval.

#### **29.6 Force Majeure**

No party shall be liable for any loss or damage that arises directly or indirectly through or as a result of any failure or delay in the fulfillment its obligations in whole or in part (other than the payment of money as may be owed by a party) under this Franchise Agreement where the delay or failure is due to "Force Majeure." In the event of Force Majeure, the parties shall be relieved of their respective obligations only to the extent each party, respectively, is prevented or delayed in performing its obligations during the period of Force Majeure. As used in this Franchise Agreement, the term "Force Majeure" shall mean any act of God, strike, lock-out or other industrial disturbance, war (declared or undeclared), riot, epidemic, fire or other catastrophe, act of any government and any other similar cause which is beyond the party's control and cannot be overcome by use of normal commercial measures. The party whose performance is affected by an event of Force Majeure shall give prompt notice of such event to the other party, which in no case shall be more than 48 hours after the event, and provide them with the information regarding the nature of the event and its estimated duration. The affected party will provide the other party with periodic reports regarding the status and progress of the Force Majeure event. Each party must use its best efforts to mitigate the effect of the event of Force Majeure upon its performance of the Agreement and to fulfill its obligations under the Franchise Agreement.

Upon completion of a Force Majeure event, the party affected must as soon as reasonably practicable recommence the performance of its obligations under this Franchise Agreement. Any delay resulting from an event of Force Majeure will extend performance accordingly or excuse performance (other than payment of money), in whole or in part, only to the extent reasonable under the circumstances. However, in the event the Force Majeure continues for a period of six months or more, then the unaffected party may, at its option, terminate this Franchise Agreement by thirty (30) days prior written notice to the party asserting such Force Majeure. An event of Force Majeure does not relieve a party from liability for an obligation which arose before the occurrence of the event, nor does that event affect any obligation to pay money owed under the Franchise Agreement or to indemnify us, whether such obligation arose before or after the Force Majeure event. An event of Force Majeure shall not affect your obligations to comply with any restrictive covenants in this Franchise Agreement during or after the Force Majeure event.

#### **29.7 Delegation**

We have the right in our sole and absolute discretion to delegate to third party designees, whether these designees are our agents or independent contractors with whom we have contracted the performance of any portion or all of our obligations under this Franchise Agreement, and any right that we have under this Franchise Agreement. If we do so, such third-party designees will be obligated to perform the delegated functions for you in compliance with this Franchise Agreement.

~~17.L — BINDING EFFECT.~~

#### **29.8 Binding Effect**

This Franchise Agreement may be executed in counterparts, and each copy so executed and delivered will be deemed an original. This Franchise Agreement is binding upon us and you and our the parties to this Franchise Agreement and your their respective executors, administrators, beneficiaries, permitted heirs, assigns, and successors in interest. Subject to our right to modify the Brand Manual and System Standards, this Franchise Agreement may not be modified. Nothing in this Franchise Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party to this Franchise Agreement; provided, however, that the Additional Insureds and the Indemnified Parties are intended third party beneficiaries under this Franchise Agreement with respect to indemnification obligations of the franchisee.

#### **29.9 Integration**

This Franchise Agreement constitutes the entire agreement between the parties and may not be changed except by a written agreement document signed by both our and your duly authorized officers; provided, however, this Franchise Agreement may be modified on renewal without your prior approval parties. Any email correspondence or other form of informal electronic communication shall not be deemed to modify this Franchise Agreement unless such communication is signed by both parties and specifically states that it is intended to modify this Franchise Agreement. The attachment(s) are part of this Franchise Agreement, which, together with any amendments or addenda executed on or after the Effective Date, constitutes the entire understanding and agreement of the parties, and there are no other oral or written understandings or agreements between us and you about the subject matter of this Franchise Agreement. No provision herein expressly identifying any term or breach of this Franchise Agreement as material shall be construed to imply that any other term or breach which is not so identified is not material. As referenced above, all mandatory provisions of the Brand Manual are part of this Franchise Agreement; however, notwithstanding the foregoing, we may modify the Brand Manual at any time.

#### 17.M—LIMITATIONS OF CLAIMS.

~~Except for claims arising from your nonpayment or underpayment of amounts you owe us, any and all claims arising out of or relating to Any representations made before entering into this Franchise Agreement or our relationship with you will be barredare not enforceable unless a judicial or arbitration proceeding is commenced within one year fromthey are specifically contained in this Franchise Agreement. This provision is intended to define the date on which nature and extent of the party asserting the claim knew or should have known of the facts giving riseparties' mutual contractual intent, and serves to the claims. However, the parties agreeeshow that in order to comply with this provision, either party may commence a judicial or arbitration proceeding before a related mediation proceeding is declared completed.~~

#### 17.N—CONSTRUCTION.

~~The preambles and attachments are a part of there is no intention to enter into contract relations other than the terms contained in this Franchise Agreement which, together with the System Standards contained in the Brand Manual (which may be periodically modified, The parties acknowledge that these limitations are intended to achieve the highest possible degree of certainty in the definition of the contract being formed, in recognition of the fact that uncertainty creates economic risks for both parties which, if not addressed as provided in this Franchise Agreement), and the Franchise Disclosure Document, constitute our and your entire agreement, and there are no other oral or written understandings or agreements between us and you, or oral or written representations by us, relating to the subject matter, would affect the economic terms of this Franchise Agreement, the franchise relationship, or the Travelin' Tom's Coffee Franchise. Any understandings or agreements reached, or any representations made, before this Franchise Agreement are superseded by this Franchise Agreement.~~

~~Any policies we adopt and implement from time to time to guide us in our decision making are subject to change, are not a part of this Franchise Agreement, and are not binding on us. Except as expressly provided in this Franchise Agreement, nothing in this Franchise Agreement is intended or deemed to confer any rights or remedies upon any person or legal entity not a party to this Franchise Agreement. Except where this Franchise Agreement expressly obligates us reasonably to approve or not unreasonably to withhold our approval of any of your actions or requests, we have the absolute right to refuse any request you make or to withhold our approval of any of your proposed, initiated, or completed actions that require our approval.~~

~~The headings of the sections and paragraphs in this Franchise Agreement are for convenience only and do not define, limit, or construe the contents of these sections or paragraphs.~~

~~References in this Franchise Agreement to “we,” “us,” and “our,” with respect to all of our rights and all of your obligations to us under this Franchise Agreement, include any of our affiliates with whom you deal. The term “affiliate” means any person or entity directly or indirectly owned or controlled by, under common control with, or owning or controlling you or us. The term “control” means the power to direct or cause the direction of management and policies.~~

~~If two or more persons are at any time the Owners of the Travelin' Tom's Coffee Franchise, whether as partners or joint venture, their obligations and liabilities to us will be joint and several. References to “Owner” mean any person holding a direct or indirect ownership interest (whether of record, beneficially, or otherwise) or voting rights in you (or a transferee of this Franchise Agreement and the Travelin' Tom's Coffee Franchise or an ownership interest in you), including, without limitation, any person who has a~~

direct or indirect interest in you (or a transferee), this Franchise Agreement, the Travelin' Tom's Coffee Franchise, or the Travelin' Tom's Coffee Franchise as well as any person who has any other legal or equitable interest, or the power to vest in himself or herself any legal or equitable interest, in their revenue, profits, rights, or assets.

References to a “controlling ownership interest” in you or one of your Owners (if an Entity) means a 51% or greater ownership interest in the entity. In the case of a proposed transfer of an ownership interest in you or one of your owners, the determination of whether a “controlling ownership interest” is involved must be made as of both immediately before and immediately after the proposed transfer to see if a “controlling ownership interest” will be transferred (because of the number of Owners before the proposed transfer) or will be deemed to have been transferred (because of the number of Owners after the proposed transfer).

“Person” means any natural person, corporation, limited liability company, general or limited partnership, unincorporated association, cooperative, or other legal or functional entity.

Unless otherwise specified, all references to a number of days shall mean calendar days and not business days.

The term “Travelin' Tom's Coffee Franchise” includes, without limitation, all of the assets of the Travelin' Tom's Coffee Franchise you operate under this Franchise Agreement.

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

bargain. Nothing in this Franchise Agreement or in any related agreement is intended to disclaim any of the representations we made in the Franchise Disclosure Document franchise disclosure document.

#### **19.10 Covenant of Good Faith**

If applicable law implies a covenant of good faith and fair dealing in this Franchise Agreement, the parties agree that the covenant shall not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Franchise Agreement. 18.O — COVENANT OF GOOD FAITH

~~If applicable law implies a covenant of good faith and fair dealing in this Franchise Agreement, the parties agree that the covenant shall not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Franchise Agreement.~~ Additionally, if applicable law shall imply the covenant, you agree that: (i) this Franchise Agreement (and the relationship of the parties that is inherent in this Franchise Agreement) grants us the discretion to make decisions, take actions, and/or refrain from taking actions not inconsistent with our explicit rights and obligations under this Franchise Agreement that may affect favorably or adversely affect your interests; (ii) we will use our judgment in exercising ~~the~~that discretion based on our general assessment of our own interests and balancing those interests against the ~~interests of our franchisees generally (including ourselves and our affiliates if applicable), and specifically without considering your individual~~general interests ~~or the of our franchisees (including ourselves and our affiliates if applicable), and not based on your or any other franchisee's specific individual interests of any other particular franchisee;~~ (iii) we will have no liability to you for the exercise of our discretion in this manner, so long as the discretion is not exercised in bad faith; and (iv) in the absence of bad faith, no trier of fact in any arbitration or litigation shall substitute its judgment for our judgment so exercised.

## 18.P — SURVIVAL

### 29.11 We and you (and your Owners) agree that this Section 18 shall apply during the term Cumulative Rights

The rights of the parties under this Franchise Agreement and following are cumulative and no exercise or enforcement by either party of any right or remedy under this Franchise Agreement will preclude any other right or remedy available under this Franchise Agreement or by law.

### 29.12 Survival

All provisions that expressly or by their nature survive the termination, expiration, or non-renewal of this Franchise Agreement or Transfer of this Franchise Agreement (or the Transfer of an ownership interest in the Franchised Business) will continue in full force and effect, even after the termination, expiration or Transfer of the Franchise Agreement, until they are fully satisfied or expire by their own terms.

## 18. — NOTICES AND PAYMENTS.

### 29.13 All written Construction

The headings in this Franchise Agreement are for convenience only and do not define, limit or construe the contents of the sections or subsections. All references to Sections refer to the Sections contained in this Franchise Agreement unless otherwise specified. All references to days in this Franchise Agreement refer to calendar days unless otherwise specified. The term “you” as used in this Franchise Agreement is applicable to one or more persons or an Entity, and the singular usage includes the plural and the masculine and neuter usages include the other, the feminine and the possessive.

### 29.14 Time is of the Essence

Time is of the essence in this Franchise Agreement and every term thereof.

### 29.15 Notice

All notices, reports, and payments permitted or required to be delivered by given under this Franchise Agreement will must be in writing and shall be deemed to be delivered:

- (1) — considered given at the time delivered by hand;
- (2) — , or one business day after transmissionsending by faesimilefax, email, or othercomparable electronic system if the sender has confirmation of successful transmission;
- (3) — , one business day after being placed in the hands of a nationally recognized commercial courier service for next business day delivery; or
- (4) — by any trackable delivery method, or three business days after placement in the United States Mail by Registered or Certified Mail, Return Reeceipt Requestedplaced in the mail, postage prepaid.

~~Any, by certified mail with a return receipt requested, postage prepaid and addressed: (a) to us at 5945 Centennial Circle, Florence, Kentucky 41042, unless written notice to us must be sent to the address specified on the signature page of this Franchise Agreement, although we may is given of a change this of address; and (b) to you at the address for notice by giving you notice of the new address. Any set forth on Attachment A of this Franchise Agreement, unless written notice we send to you may be sent only to the Managing Owner, or, if applicable, the Designated Manager at the address specified on the signature page of this Franchise Agreement. You may change the person and/or address for notice only by giving us 30 days' prior written notice by any of the means specified in subparagraphs (1) through (4) above of this Section is given of a change of address.~~

**(Signature Page Follows)**



The parties to this Franchise Agreement have executed this Franchise Agreement effective as of the Effective Date set forth in Attachment A.

**FRANCHISOR:**

MOBILE COFFEE COMPANY, LLC  
a Delaware limited liability company

**FRANCHISEE:**

[Insert Entity Name]  
[insert State/Type of Entity]

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

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

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

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

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

Or if Franchisee is an individual(s)

Sign: \_\_\_\_\_  
\_\_\_\_\_ individually

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

Sign: \_\_\_\_\_  
\_\_\_\_\_ individually

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



**ATTACHMENT A**  
**TO THE FRANCHISE AGREEMENT**  
**FRANCHISE DATA SHEET**

1. **Effective Date.** The Effective Date of the Franchise Agreement is: \_\_\_\_\_, 20\_\_\_\_.

2. **Franchisee.** The franchisee identified in the introductory paragraph of the Franchise Agreement is: \_\_\_\_\_

3. **Notice Address.** Franchisee Notice Address is: \_\_\_\_\_

Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. **Initial Franchise Fee.** The “Initial Franchise Fee” is: (check one):

\_\_\_\_\_ \$15,000 for a single Franchise.

\_\_\_\_\_ Not applicable; this Franchise Agreement is signed as a Successor Franchise Agreement or as a result of a Transfer.

\_\_\_\_\_ This Franchise Agreement is being signed under an area development agreement between you and a credit of \$ \_\_\_\_\_ from your Development Fee towards the purchase price of the BEV. This Franchise Agreement constitutes franchise number \_\_\_\_\_ out of a total of up to \_\_\_\_\_ franchises under the area development agreement between you and us dated \_\_\_\_\_, 20\_\_\_\_.

5. **BEV Royalty Schedule.** Your BEV Royalty Schedule will be (select one):

\_\_\_\_\_ 3 annual installments ~~Any required payment or report which we do not actually receive during regular business hours on the date due (or postmarked by postal authorities at least two days before then) will be deemed delinquent.~~

**19. COMPLIANCE WITH ANTI-TERRORISM LAWS.**

You and your Owners agree to comply, and to assist us to the fullest extent possible in our efforts to comply, with Anti-Terrorism Laws (defined below). In connection with that compliance, you and your Owners certify, represent, and warrant that none of your property or interests is subject to being blocked under, and that you and your Owners otherwise are not in violation of, any of the Anti-Terrorism Laws. “**Anti-Terrorism Laws**” mean Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act, and all other present and future federal, state, and local laws, ordinances, regulations, policies, lists, and other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war. Any violation of the Anti-Terrorism Laws by you or your Owners, or any

~~blocking of your or your Owners' assets under the Anti Terrorism Laws, shall constitute good cause for immediate termination of this Franchise Agreement as provided in Section 15B above.~~

**~~20. ELECTRONIC MAIL.~~**

~~You acknowledge and agree that exchanging information with us by email is efficient and desirable for day to day communications and that we and you may utilize email for such communications. You authorize the transmission of email by us and our employees, vendors, and affiliates ("**Official Senders**") to you, your Owners (if you are an Entity), the Managing Owner, and, if applicable, any Designated Manager during the term of this Franchise Agreement.~~

~~You further agree that: (a) Official Senders are authorized to send emails to those of your employees as you may occasionally authorize for the purpose of communicating with us; (b) you will cause your officers, directors, and employees to give their consent to Official Senders' transmission of emails to them; (c) you will require such persons not to opt out or otherwise ask to no longer receive emails from Official Senders during the time that such person works for or is affiliated with you; and (d) you will not opt out or otherwise ask to no longer receive emails from Official Senders during the term of this Franchise Agreement.~~

~~The consent given in this Section 21 shall not apply to the provision of notices by either party under this Franchise Agreement under Section 19 using email unless the parties otherwise agree in a written document manually signed by both parties.~~

~~;      6 annual installments;      9 annual installments~~

6. **BEV Identification Number:** The BEV number or VIN number is: \_\_\_\_\_.

7. **Territory.** The Territory set forth in Section 4 of the Franchise Agreement will be the area as shown on the map or described below:

*(Signature Page Follows)*

\_\_\_\_\_  
~~IN WITNESS WHEREOF, the parties have executed and delivered this Franchise Agreement on the dates noted below.~~

~~Address for Notices Pursuant to  
Section 19 of this Franchise Agreement~~

Signatures

Our Address

**MOBILE COFFEE COMPANY, LLC,**

~~a Delaware limited liability company~~

~~5945 Centennial Circle~~

~~Florence, Kentucky 41042~~

~~Attn: President~~

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

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

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

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



Your Address

\_\_\_\_\_  
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**FRANCHISEE:**

\_\_\_\_\_  
\_\_\_\_\_  
**Company Name**

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

**Printed Name:** \_\_\_\_\_

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

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



**FRANCHISOR:**

MOBILE COFFEE COMPANY, LLC  
a Delaware limited liability company

Sign: \_\_\_\_\_

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

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

**FRANCHISEE:**

[Insert Entity Name]  
[insert State/Type of Entity]

Sign: \_\_\_\_\_

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

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

Or if Franchisee is an individual(s)

Sign: \_\_\_\_\_  
individually

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

Sign: \_\_\_\_\_  
individually

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



**ATTACHMENT B**  
**TO THE FRANCHISE AGREEMENT-ATTACHMENT A**

**4.1 FRANCHISE DATA SHEET**

1. ~~**Effective Date.** The Effective Date set forth in the introductory Paragraph of the Franchise Agreement is: \_\_\_\_\_, 20\_\_\_\_.~~
  
2. ~~**Protected Territory.** The Protected Territory set forth in Section 2A of the Franchise Agreement will be the area as shown on the map or described below:~~
  
  
  
  
  
  
  
  
  
3. ~~**BEV Royalty Schedule.** Your BEV Royalty Schedule will be (select one):~~  
~~**STATEMENT OF**~~  

~~\_\_\_\_\_3 annual installments~~

~~\_\_\_\_\_6 annual installments~~

~~\_\_\_\_\_9 annual installments~~
  
4. ~~**Identification of Managing Owner.** Your Managing Owner as of the Effective Date is \_\_\_\_\_.~~  
~~\_\_\_\_\_.~~ You may not change the Managing Owner without prior written approval.
  
5. ~~**Identification of Designated Manager.** Your Designated Manager, if applicable, as of the Effective Date is \_\_\_\_\_.~~  
~~\_\_\_\_\_.~~ You may not change the Designated Manager without prior written approval.
  
6. ~~**Renewal.** (Select one)~~

a. ~~\_\_\_\_\_ This Franchise Agreement is for a new Travelin' Tom's Coffee Franchise.~~

b. ~~\_\_\_\_\_ This Franchise Agreement is a successor franchise agreement and is renewing of an existing Travelin' Tom's Coffee Franchise. You agree to pay the renewal fee set forth in the franchise agreement being renewed and are not required to pay an Initial Franchise Fee. Your and our pre-opening obligations set forth in this Franchise Agreement are hereby modified accordingly. No Initial Training shall be required. Your Royalty fee schedule is modified to be based on the date that you signed the initial franchise agreement for your Travelin' Tom's Coffee Franchise. You agree to enter into a renewal addendum to this Franchise Agreement and, subject to state law, you and each of your Owners agree to execute a general release of claims.~~

5. ~~FRANCHISE AGREEMENT~~ **ATTACHMENT B**

**OWNERSHIP INTERESTS**

This Attachment B is current and complete as of the Effective Date  
shown in Attachment A of the Franchise Agreement

Franchisee: \_\_\_\_\_

**Form of Ownership  
(Check One)**

\_\_\_\_\_ Individual \_\_\_\_\_(s) \_\_\_\_\_ Partnership \_\_\_\_\_ Corporation \_\_\_\_\_ Limited  
Liability Company

~~If a **Partnership**, provide name and address of each partner showing percentage owned, whether active in management, and indicate the state in which the partnership was formed.~~

~~If a **Corporation**, give the state and date of incorporation, the names and addresses of each officer and director, and list the names and addresses of every shareholder showing what percentage of stock is owned by each.~~

~~If a **Limited Liability Company**, give the state and date of formation, the name and address of the manager(s), and list the names and addresses of every member and the percentage of membership interest held by each member.~~

~~If you are an entity with multiple Owners, one of your Owners who is a natural person must have at least 51% ownership interest and voting power in you (including a spouse's interest).~~

**INSTRUCTIONS: If the franchisee is an individual (or individuals), please complete section I below only. If the franchisee is a business entity, please complete sections II and III below.**

**SECTION I (For Individual(s)\*):**

<u>Name</u>	<u>Address</u>

\*If you plan to operate your Franchised Business through a business entity in the future, you will need to notify us, transfer this Franchise Agreement to the Entity, and sign all of our transfer documents.



**SECTION II (For Entities):**

**A. State and Date of Formation/Incorporation:** \_\_\_\_\_  
\_\_\_\_\_

**B. Management (managers, officers, board of directors, etc.):**

Name	Title

**C. Owners (Members, Stockholders, Partners\*:)\*\*:**

Please include each person or entity who is a direct and indirect owner of franchisee (attach additional sheets if necessary). If any of the owners are also business entities, please list the entities and owners of each of those business entities also.

Name	Address	Percentage Owned

**\*\***If any members, stockholders or partners are entities, please list entities and the owners of such entities up through the individuals.

*(Signature on following page)*

**SECTION III (For Entities):**

**A. Identification of Managing Owner.** Your Managing Owner is \_\_\_\_\_  
\_\_\_\_\_. You may not change the Managing Owner without prior  
written approval.

**B. Identification of Designated Manager.** Your Designated Manager, if applicable, is \_\_\_\_\_  
\_\_\_\_\_. You may not change the Designated  
Manager without prior written approval.

This form is current and complete as of \_\_\_\_\_, 20\_\_\_\_.

**FRANCHISEE:**

**FRANCHISEE:**

[Insert Entity Name]  
[Insert State/Type of Entity]

By:

Sign:

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

\_\_\_\_\_

Printed Name:

Printed Name:

Title:

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

\_\_\_\_\_

\_\_\_\_\_

Title:

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

Date:

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



ATTACHMENT C



## TO THE FRANCHISE AGREEMENT-ATTACHMENT C

### OWNERSFRANCHISE OWNER AGREEMENT

As a condition to the ~~execution~~granting by Mobile Coffee Company, LLC (“~~we~~” or “~~us~~”),”) of a ~~Franchise Agreement~~franchise agreement with \_\_\_\_\_ (“Franchisee”), each of the undersigned individuals (“Owners”), who constitute all of the owners of a direct or indirect beneficial interest in Franchisee, as well as their respective spouses, covenant and agree to be bound by this Owners Agreement (“~~Owners~~Franchise Owner Agreement”).

#### **1. Acknowledgments.**

1.1 Franchise Agreement. Franchisee entered into a franchise agreement with us effective as of \_\_\_\_\_, 20\_\_\_\_ (“Franchise Agreement”). Capitalized words not defined in this ~~Owners~~Franchise Owner Agreement will have the same meanings ascribed to them in the Franchise Agreement.

1.2 Owners’ Role of Owners. Owners are the beneficial owners or spouses of the beneficial owners of all of the direct and indirect equity interest, membership interest, or other equity controlling interest in Franchisee and acknowledge there are benefits received and to be received by each Owner, jointly and severally, and for themselves, their heirs, legal representatives, and assigns. Franchisee’s obligations under the Franchise Agreement, including the confidentiality and non-compete obligations, would be of little value to us if Franchisee’s direct and indirect owners were not bound by the same requirements. Under the provisions of the Franchise Agreement, Owners are required to enter into this ~~Owners~~Franchise Owner Agreement as a condition to our entering into the Franchise Agreement with Franchisee. Owners will be jointly and severally liable for any breach of this ~~Owners~~Franchise Owner Agreement.

#### **2. Non-Disclosure and Protection of Confidential Information.**

2.1 Confidentiality. Under the Franchise Agreement, we will provide Franchisee with specialized training, proprietary trade secrets, and other Confidential Information relating to the establishment and operation of a franchised business. The provisions of the Franchise Agreement governing Franchisee’s non-disclosure obligations relating to our Confidential Information are hereby incorporated into this ~~Owners~~Franchise Owner Agreement by reference, and Owners agree to comply with each obligation as though fully set forth in this ~~Owners~~Franchise Owner Agreement as a direct and primary obligation of Owners. Further, we may seek the same remedies against Owners under this ~~Owners~~Franchise Owner Agreement as we may seek against Franchisee under the Franchise Agreement. Any and all information, knowledge, know-how, techniques, and other data, which we designate as confidential, will also be deemed Confidential Information for purposes of this ~~Owners~~Franchise Owner Agreement.

2.2 Immediate Family Members. Owners acknowledge that they could circumvent the purpose of Section 2.1 by disclosing Confidential Information to an immediate family member (i.e., spouse, parent, sibling, child, or grandchild). Owners also acknowledge that it would be difficult for us to prove whether Owners disclosed the Confidential Information to family members. Therefore, each Owner agrees that he or she will be presumed to have violated the terms of Section 2.1 if any member of his or her immediate family uses or discloses the Confidential Information or engages in any activities that would



constitute a violation of the covenants listed in Section 3, below, if performed by Owners. However, Owners may rebut this presumption by furnishing evidence conclusively showing that Owners did not disclose the Confidential Information to the family member.

### **3. Covenant Not to Compete.**

3.1 Non-Competition During and After the Term of the Franchise Agreement. Owners acknowledge that as a participant in our system, they will receive proprietary and confidential information and materials, trade secrets, and the unique methods, procedures, and techniques which we have developed. The provisions of the Franchise Agreement governing Franchisee's restrictions on competition both during the term of the Franchise Agreement and following the expiration ~~or~~ termination ~~or~~ transfer of the Franchise Agreement are hereby incorporated into this ~~Owners~~ Franchise Owner Agreement by reference, and Owners agree to comply with and perform each such covenant as though fully set forth in this ~~Owners~~ Franchise Owner Agreement as a direct and primary obligation of Owners. Further, we may seek the same remedies against Owners under this ~~Owners~~ Franchise Owner Agreement as we may seek against Franchisee under the Franchise Agreement.

3.2 Construction of Covenants. The parties agree that each such covenant related to non-competition will be construed as independent of any other covenant or provision of this ~~Owners~~ Franchise Owner Agreement. If all or any portion of a covenant referenced in this Section 3 is held unreasonable or unenforceable by a court or agency having valid jurisdiction in a final decision to which we are a party, Owners agree to ~~be remain~~ bound by any lesser covenant subsumed within the terms of such covenant that imposes to the maximum ~~duty~~ extent permitted by law, as if ~~the resulting that~~ that covenant were separately stated in and made a part of this Section 3.

3.3 Our Right to Reduce Scope of Covenants. Additionally, we have the right, in our sole discretion, to unilaterally reduce the scope of all or part of any covenant referenced in this Section 3 of this ~~Owners~~ Franchise Owner Agreement, without Owners' consent (before or after any dispute arises), effective when we give Owners written notice of this reduction. Owners agree to comply with any covenant as so modified.

### **4. Continuing Guarantee.**

4.1 Payment. Owners will pay us (or cause us to be paid) all monies payable by Franchisee under the Franchise Agreement whether now or in the future on the dates and in the manner required for payment in the relevant agreement.

4.2 Performance. Owners unconditionally guarantee ~~the full performance and discharge by Franchisee of all of Franchisee's obligations under the Franchise Agreement at the time and manner required by the Franchise Agreement or other relevant agreement between Franchisor and Franchisee. Owners shall be responsible for fulfilling and discharging any Franchisee obligation not fulfilled or discharged by Franchisee under the Franchise Agreement or other~~ whether now or in the future on the date and times and in the manner required in the relevant agreement.

4.3 Indemnification. Owners will indemnify, defend, and hold harmless us, all of our affiliates, and the respective shareholders, directors, partners, employees, and agents of such entities, against and from all losses, damages, costs, and expenses which we or they may sustain, incur, or become liable for, whether now or in the future, by reason of: (a) Franchisee's failure to pay the ~~monies payable~~ amounts owed (to us or any of our affiliates) pursuant to the Franchise Agreement, or to do and perform any other act, matter, or thing required by the Franchise Agreement; or (b) ~~any action by us to obtain performance by Franchisee of any act, matter, or thing required by the Franchise Agreement.~~

4.4 No Exhaustion of Remedies. Owners acknowledge and agree that we will ~~are not be obligated to proceed against Franchisee or exhaust any security from Franchisee or pursue or exhaust any all remedy, including any (whether legal or equitable-) against or pursue relief against from the~~ Franchisee, before proceeding to enforce the obligations of the Owners as guarantors under this ~~Owners Franchise Owner Agreement, and the.~~ The enforcement of such Owners' obligations can take place before, after, or contemporaneously simultaneously with, the enforcement of any of the Franchisee's debts or obligations under the Franchise Agreement.

4.5 Waiver of Notice. Without affecting Owners' obligations under this Section 4, we can extend, modify, or release any of Franchisee's indebtedness or obligation, or settle, adjust, or compromise any claims against Franchisee, all without notice to the Owners. Owners waive notice of amendment of the Franchise Agreement and notice of demand for payment or performance by Franchisee.

4.6 Effect of Owner's Death. Upon the death of an Owner, the estate of such Owner will be bound by the obligations in this Section 4, but only for defaults and obligations hereunder existing at the time of death, and the obligations of any other Owners will continue in full force and effect.

4.7 Waiver of Acceptance, Default and Defenses. Owners waive: (i) acceptance and notice of acceptance by us of the forgoing undertakings; (b) protest and notice of default to any party with respect to the indebtedness or non-performance of any obligations hereby guaranteed; and (c) any and all other notices and legal or equitable defenses, right of setoff, claim or counterclaim whatsoever to which they may be entitled at any time hereunder.

4.8 Continuing Nature. Owners agree that each of the obligations in this Section 4 shall be continuing and shall not be discharged by: (i) the insolvency of Franchisee or the payment in full of all of the obligations at any time; (ii) the power or authority or lack thereof of Franchisee to incur the obligations; (iii) the validity or invalidity of any of the obligations; (iv) the existence or non-existence of Franchisee as a legal entity; (v) the transfer or assignment of all or a portion of the ownership in Franchisee and/or the assets of Franchisee; (vi) the execution of an owners agreement or any other form of guaranty by any direct, indirect or beneficial owner of Franchisee in favor of us or our successors or assigns; (vii) any statute of limitations affecting the liability of Owners or the ability of us to enforce this Franchise Owner Agreement or the obligations; (viii) any right of offset, counterclaim or defense of any Owner, including, without limitation, those which have been waived by Owners pursuant to this Franchise Owners Agreement; or (ix) the expiration, termination or assignment of the Franchise Agreement or any other agreement between you or Franchisee and us or our affiliates.

## **5. Transfers.**

Owners acknowledge and agree that we have granted the Franchise Agreement to Franchisee in reliance on Owners' business experience, skill, financial resources, and personal character. Accordingly, Owners agree: a) not to sell, encumber, assign, transfer, convey, pledge, merge, or give away any direct or indirect interest in this Franchisee, unless Owners first comply with the sections in the Franchise Agreement regarding transfers Transfers. Owners acknowledge and assignment, and b) agree that any attempt attempting to do so Transfer an interest in the Franchisee without our express written consent, except those situations provided in the Franchise Agreement where our consent is not required, will be a material breach of this Owners Franchise Owner Agreement and the Franchise Agreement. We may, from time to time, without notice to Owners, assign or transfer any or all of Owners' rights, duties and obligations or any interest therein in this Owners Agreement and, notwithstanding any assignment(s) or transfer(s), the rights, duties and obligations shall be and remain for the purpose of this Owners Agreement. Each and every immediate and successive assignee or transferee of any of the rights, duties or obligations of any interest therein shall,

to the extent of such party's interest in the rights duties and/or obligations, be entitled to the benefits of this Owners Agreement to the same extent as if such assignee or transferee were us.

## **6. Notices.**

6.1 Method of Notice. Any notices given under this ~~OwnersFranchise Owner~~ Agreement shall be in writing and delivered in accordance with the provisions of the Franchise Agreement.

6.2 Notice Addresses. Our current address for all communications under this ~~OwnersFranchise Owner~~ Agreement is:

Mobile Coffee Company, LLC  
5945 Centennial Circle  
Florence, Kentucky 41042

The current address of each Owner for all communications under this ~~OwnersFranchise Owner~~ Agreement is designated on the signature page of this ~~OwnersFranchise Owner~~ Agreement. Any party may designate a new address for notices by giving written notice to the other parties of the new address according to the method set forth in the Franchise Agreement.

## **7. Enforcement of This ~~OwnersFranchise Owner~~ Agreement.**

7.1 Dispute Resolution. Any claim or dispute arising out of or relating to this ~~OwnersFranchise Owner~~ Agreement shall be subject to the dispute resolution provisions of the Franchise Agreement. This agreement to engage in such dispute resolution process shall survive the termination or expiration of this ~~OwnersFranchise Owner~~ Agreement.

7.2 Choice of Law; Jurisdiction and Venue. This ~~OwnersFranchise Owner~~ Agreement and any claim or controversy arising out of, or relating to, any of the rights or obligations under this ~~OwnersFranchise Owner~~ Agreement, and any other claim or controversy between the parties, ~~shall~~will be governed by the choice of law~~and~~, jurisdiction, and venue provisions of the Franchise Agreement.

7.3 ~~Provisional~~Equitable Remedies. ~~We have the right to seek from an appropriate court any provisional remedies, including temporary restraining orders or preliminary injunctions, to enforce Owners' obligations under this Owners Agreement. Owners acknowledge and agree that there is no adequate remedy at law for Owners' failure to fully comply with the covenants and obligations of the requirements of this Owners Agreement. Owners further acknowledge~~Owners relate to special, unique and agree that, in the eventextraordinary matters and that a violation of any non-compliance, we will be of the terms of such covenants and obligations will cause us irreparable injury for which adequate remedies are not available at law. Therefore, Owners agree that we shall be entitled to temporary, preliminary, and permanent injunctions, as well as allan injunction, restraining order or such other equitable relief that any court with(without the requirement to post bond) as a court of competent jurisdiction may deem just and proper.~~necessary or appropriate to restrain Owners from committing any violation of the covenants and obligations contained in this Franchise Owner Agreement. If injunctiveequitable relief is granted, Owners' only remedy will be the court's dissolution of the injunctive relief. If the injunctiveequitable relief was wrongfully issued, Owners expressly waive all claims for damages they incurred as a result of the wrongful issuance.~~

## **8. Miscellaneous.**



8.1 No Other Agreements. This ~~Owners~~Franchise Owner Agreement constitutes the entire, full, and complete agreement between the parties, and supersedes any earlier or contemporaneous negotiations, discussions, understandings, or agreements. There are no representations, inducements, promises, agreements, arrangements, or undertakings, oral or written, between the parties relating to the matters covered by this ~~Owners~~Franchise Owner Agreement, other than those in this ~~Owners~~Franchise Owner Agreement. No other obligations, restrictions, or duties that contradict or are inconsistent with the express terms of this ~~Owners~~Franchise Owner Agreement may be implied into this ~~Owners~~Franchise Owner Agreement. Except for unilateral reduction of the scope of the covenants permitted in Section 3.3 (or as otherwise expressly provided in this ~~Owners~~Franchise Owner Agreement), no amendment, change, or variance from this ~~Owners~~Franchise Owner Agreement will be binding on either party unless it is mutually agreed to by the parties and executed in writing. Time is of the essence.

8.2 Severability. Each provision of this ~~Owners~~Franchise Owner Agreement, and any portions thereof, will be considered severable. If any provision of this ~~Owners~~Franchise Owner Agreement or the application of any provision to any person, property, or circumstances is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this ~~Owners~~Franchise Owner Agreement will be unaffected and will still remain in full force and effect. The parties agree that the provision found to be invalid or unenforceable will be modified to the extent necessary to make it valid and enforceable, consistent ~~as much as possible~~ with the original intent of the parties (i.e., to provide maximum protection for us and to effectuate the Owners' obligations under the Franchise Agreement to the fullest extent permitted by law), and the parties agree to be bound by the modified provisions.

8.3 No Third- Party Beneficiaries. Nothing in this ~~Owners~~Franchise Owner Agreement is intended to confer upon any person or entity (other than the parties and their heirs, successors, and assigns) any rights or remedies under or by reason of this ~~Owners~~Franchise Owner Agreement.

8.4 Construction. Any term defined in the Franchise Agreement which is not defined in this ~~Owners~~Franchise Owner Agreement will be ascribed the meaning given to it in the Franchise Agreement. The language of this ~~Owners~~Franchise Owner Agreement will be construed according to its fair meaning, and not strictly for or against either party. All words in this ~~Owners~~Franchise Owner Agreement refer to whatever number or gender the context requires. If more than one party or person is referred to as you, their obligations and liabilities must be joint and several. Headings are for reference purposes and do not control interpretation.

8.5 Binding Effect. This ~~Owners~~Franchise Owner Agreement may be executed in counterparts, and each copy so executed and delivered will be deemed an original. This ~~Owners~~Franchise Owner Agreement is binding on the parties and their respective heirs, executors, administrators, personal representatives, successors, and (permitted) assigns.

~~8.6 Continuing Nature of this Owners Agreement. This Owners Agreement shall be continuing and shall not be discharged, impaired or affected by: (1) the insolvency of Franchisee or the payment in full of all of the obligations under the Franchise Agreement at any time; (2) the validity or invalidity of any of the terms of the Owners Agreement; (3) the existence or non-existence of Franchisee as a legal entity; (4) any statute of limitations affecting the liability of Owners or the ability of us or our successors or assigns to enforce this Owners Agreement; (5) the transfer or assignment of all or a portion of the ownership in Franchisee and/or the assets of Franchisee; (6) the execution of an owners agreement or any other form of guaranty by any additional direct, indirect or beneficial owner of Franchisee in favor of us or our successors or assigns; (7) any right of offset, counterclaim or defense of any Owner; or (8) the expiration, termination or assignment of the Franchise Agreement or any other agreement between you and us.~~

~~8.7~~ ~~Successors.~~ References to “Franchisor,” “the undersigned,” or “you” include the respective parties’ heirs, successors, assigns, or transferees.

~~8.8.6~~ Successors. References to “Franchisor,” “Owners,” “the undersigned,” or “you” include the respective parties’ heirs, successors, assigns, or transferees.

~~8.7~~ Nonwaiver. Our failure to insist upon strict compliance with any provision of this ~~Owners~~Franchise Owner Agreement shall not be a waiver of our right to do so. Delay or omission by us respecting any breach or default shall not affect our rights respecting any subsequent breaches or defaults. All rights and remedies granted in this ~~Owners~~Franchise Owner Agreement shall be cumulative.

~~8.98~~ No Personal Liability. ~~You~~Owners agree that fulfillment of any and all of our obligations written in the Franchise Agreement or this ~~Owners~~Franchise Owner Agreement, or based on any oral communications which may be ruled to be binding in a court of law, shall be our sole responsibility and none of our owners, officers, agents, representatives, nor any individuals associated with us shall be personally liable to ~~you~~Owners for any reason.

~~8.10~~ ~~Owners~~9 Franchise Owner Agreement Controls. In the event of any discrepancy between this ~~Owners~~Franchise Owner Agreement and the Franchise Agreement, this ~~Owners~~Franchise Owner Agreement shall control.

*(Signatures on following page)*

*(Signature Page Follows)*

**IN WITNESS WHEREOF**, the parties have entered into this ~~Owners~~Franchise Owner Agreement as of the ~~effective date~~Effective Date of the Franchise Agreement.

**OWNER(S):**

**SPOUSE(S):**

Sign: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sign: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Printed Name: [Insert  
Owner \_\_\_\_\_ Name  
Owner Here]

Printed Name: [Insert  
Name of Spouse \_\_\_\_\_  
Here]

Address:

Address:

Sign: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sign: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

~~Printed Name:~~ [Insert  
~~Name~~ Address of Owner]

~~Printed Name:~~ [Insert  
~~Name~~ Address of Spouse]

~~Address:~~

~~Address:~~

~~Sign:~~ \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

~~Sign:~~ \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

~~Sign:~~ \_\_\_\_\_

~~Sign:~~ \_\_\_\_\_

Printed Name: [Insert  
Owner \_\_\_\_\_ Name  
Owner Here]

Printed Name: [Insert  
Name of Spouse \_\_\_\_\_  
Here]

Address:

Address:





Sign: \_\_\_\_\_  
\_\_\_\_\_

Sign: \_\_\_\_\_  
\_\_\_\_\_

Printed Name: [Insert Name] Address of Owner] Printed Name: [Insert Name] Address of Spouse]

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Printed Name: [Insert Owner Name Here] Address: [Insert Address of Owner] Printed Name: [Insert Spouse Name Here] Address: [Insert Address of Spouse]

Rev.030824

(Rev. 121319)

Mobile Coffee Company, LLC hereby accepts the agreements of the Owner(s) hereunder.

-



**ATTACHMENT D**  
**TO THE FRANCHISE AGREEMENT**  
**ADDITIONAL EQUIPMENT AMENDMENT**

This Amendment is made and entered into as of the effective date listed in the signature block (“Effective Date”) by and between Mobile Coffee Company, LLC, a Delaware limited liability company (“Franchisor”) and the Franchisee identified on the signature block below (“Franchisee”), with reference to the following facts:

- A. The parties have entered into a Travelin’ Tom’s franchise agreement pursuant to which Franchisee will operate a Travelin’ Tom’s Franchise (the “Franchise Agreement”).
- B. Subject to the conditions of the Franchise Agreement, Franchisee has the option to purchase additional Travelin’ Tom’s equipment (“Additional Equipment”) for use in the Franchisee’s Territory.
- C. The parties hereto desire to amend the Franchise Agreement as set forth herein. Unless defined herein all capitalized terms used herein shall have the meaning in the Franchise Agreement.

NOW, THEREFORE, for and in consideration of the covenants, warranties and mutual agreements contained herein, the parties hereto agree as follows:

1. **ADDITIONAL EQUIPMENT.** Franchisee desires to purchase a BEV Cart for use in the Protected Territory. The AE Royalty for the BEV Cart is \$2,000 per year. Franchisee agrees to pay the AE Royalty in \_\_\_\_\_ installments of \$ \_\_\_\_\_ per month and to make all payments together with the Royalty for the BEV. Franchisee acknowledges that the AE Royalty may increase upon entering into a Successor Franchise Agreement. The AE Royalty shall be due for so long as Franchisee owns the Additional Equipment. Franchisee must present evidence to Franchisor, as required by Franchisor in its sole discretion that Franchisee no longer owns the Additional Equipment prior to Franchisee being excused from paying any further AE Royalties. Franchisee shall not be entitled to receive a refund on any AE Royalty paid. Franchisee acknowledges and agrees that the AE Royalty may increase upon renewal of the Franchise Agreement and agrees to pay Franchisor the then-current Royalty amount upon any such renewal. The anticipated purchase price for the BEV Cart is \$ \_\_\_\_\_ to \$ \_\_\_\_\_ and is subject to change. The AE Royalty is separate for each piece of Additional Equipment that Franchisee owns.

2. **AMENDMENT BINDING.** This Amendment will be binding upon and inure to the benefit of each party and to each party’s respective successors and assigns.

3. **NO FURTHER CHANGES.** Except as specifically provided in this Amendment, all of the terms, conditions and provisions of the Franchise Agreement will remain in full force and effect as originally written and signed. In the event of any inconsistency between the Franchise Agreement and this Amendment, this Amendment shall control.

**(Signature Page Follows)**

IN WITNESS WHEREOF, the parties duly executed this Amendment as of the dates listed below.

**Mobile Coffee Company, LLC**

**[Insert Entity Name],**  
[Insert State/Type of Entity]

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

Sign: \_\_\_\_\_

**MOBILE COFFEE COMPANY, LLC**  
a Delaware limited liability company

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

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

Sign: \_\_\_\_\_

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

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

Or if Franchisee is an individual(s)

Sign: \_\_\_\_\_  
individually

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

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

**\*Effective Date**

Sign: \_\_\_\_\_  
individually

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



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**EXHIBIT D**

**AREA DEVELOPMENT AGREEMENT**

**EXHIBIT E**

**FRANCHISE DISCLOSURE QUESTIONNAIRE**

## FRANCHISE DISCLOSURE QUESTIONNAIRE

**(This questionnaire is not to be used for any franchise sale in or to residents of California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, or Wisconsin)**

As you know, Mobile Coffee Company, LLC (“we” or “us”), and you are preparing to enter into a Franchise Agreement and Area Development Agreement, if applicable, for the operation of a Travelin’ Tom’s Coffee franchise. **You cannot sign or date this questionnaire the same day as the Receipt for the Franchise Disclosure Document, but you must sign and date it the same day you sign the Franchise Agreement.** Please review each of the following questions carefully and provide honest responses to each question. If you answer “No” to any of the questions below, please explain your answer in the table provided below.

**Do not sign this Questionnaire if you are a resident of Maryland or the franchise is to be operated in Maryland.**

1.      Yes\_\_\_ No\_\_\_      Have you received and personally reviewed the Franchise Agreement and Area Development Agreement, if applicable, and each attachment or exhibit attached to it that we provided?
2.      Yes\_\_\_ No\_\_\_      Have you received and personally reviewed the Franchise Disclosure Document and each attachment or exhibit attached to it that we provided?
3.      Yes\_\_\_ No\_\_\_      Did you sign a receipt for the Franchise Disclosure Document indicating the date you received it?
4.      Yes\_\_\_ No\_\_\_      Do you understand all the information contained in the Franchise Disclosure Document and Franchise Agreement?
5.      Yes\_\_\_ No\_\_\_      Have you reviewed the Franchise Disclosure Document and Franchise Agreement with a lawyer, accountant, or other professional advisor, or have you had the opportunity for such review and chosen not to engage such professionals?
6.      Yes\_\_\_ No\_\_\_      Have you had the opportunity to discuss the benefits and risks of developing and operating a Travelin’ Tom’s Coffee Franchise with an existing Travelin’ Tom’s Coffee franchisee?
7.      Yes\_\_\_ No\_\_\_      Do you understand the risks of developing and operating a Travelin’ Tom’s Coffee Franchise?
8.      Yes\_\_\_ No\_\_\_      Do you understand the success or failure of your Travelin’ Tom’s Coffee Franchise will depend in large part upon your skills, abilities, and efforts, and those of the persons you employ, as well as many factors beyond your control such as competition, interest rates, the economy, inflation, labor and supply costs, and other relevant factors?
9.      Yes\_\_\_ No\_\_\_      Do you understand all disputes or claims you may have arising out of or relating to the Franchise Agreement and Area Development Agreement, if

applicable, must be arbitrated in Kentucky, if not resolved informally or by mediation, (subject to state law)?

10. Yes\_\_\_ No\_\_\_ Do you understand that you must satisfactorily complete the initial training program before we will allow your Travelin' Tom's Coffee Franchise to open or consent to a transfer of the Travelin' Tom's Coffee Franchise to you?
11. Yes\_\_\_ No\_\_\_ Do you agree that no employee or other person speaking on our behalf made any statement or promise regarding the costs involved in operating a Travelin' Tom's Coffee Franchise that is not contained in the Franchise Disclosure Document or that is contrary to, or different from, the information contained in the Franchise Disclosure Document?
12. Yes\_\_\_ No\_\_\_ Do you agree that no employee or other person speaking on our behalf made any statement or promise or agreement, other than those matters addressed in your Franchise Agreement and Area Development Agreement, if applicable, and any addendum, concerning advertising, marketing, media support, marketing penetration, training, support service, or assistance that is contrary to, or different from, the information contained in the Franchise Disclosure Document?
13. Yes\_\_\_ No\_\_\_ Do you agree that no employee or other person speaking on our behalf made any statement or promise regarding the actual, average or projected profits or earnings, the likelihood of success, the amount of money you may earn, or the total amount of revenue a Travelin' Tom's Coffee Franchise will generate that is not contained in the Franchise Disclosure Document or that is contrary to, or different from, the information contained in the Franchise Disclosure Document?
14. Yes\_\_\_ No\_\_\_ Do you understand that the Franchise Agreement and Area Development Agreement, if applicable, including each attachment or exhibit to the Franchise Agreement, contains the entire agreement between us and you concerning the Travelin' Tom's Coffee Franchise?
15. Yes\_\_\_ No\_\_\_ Do you understand that we are relying on your answers to this questionnaire to ensure that the franchise sale was made in compliance of state and federal laws?

YOU UNDERSTAND THAT YOUR ANSWERS ARE IMPORTANT TO US AND THAT WE WILL RELY ON THEM. BY SIGNING THIS QUESTIONNAIRE, YOU ARE REPRESENTING THAT YOU HAVE CONSIDERED EACH QUESTION CAREFULLY AND RESPONDED TRUTHFULLY TO THE ABOVE QUESTIONS.

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Signature of Franchise Applicant

Name (please print)

Name (please print)

Date \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

Date \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

Date \_\_\_\_\_

Date \_\_\_\_\_

EXPLANATION OF ANY NEGATIVE RESPONSES (REFER TO QUESTION NUMBER):

Question Number	Explanation of Negative Response

Rev. 030423071823



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**BRAND MANUAL**

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**EXHIBIT FG**

**LIST OF CURRENT AND FORMER FRANCHISEES**

**MOBILE COFFEE COMPANY, LLC  
LIST OF FRANCHISEES**

**Current Franchisees as of December 31, ~~2023~~2022:**

Franchisee	Address	City	State	Zip Code	Phone	Outlets Operated
Butler, Kevin & Karla	1520 Simmsville Rd Suite 1200	Alabaster	AL	35007	(205-) 620-3553	AL: 1
<u>Mattox, Craig</u>	<u>801 Mundy Drive</u>	<u>Anniston</u>	<u>AL</u>	<u>36207</u>	<u>(256) 453-6567</u>	<u>AL: 1</u>
O'Rear, Russ & Amber	1216 Nick Davis Rd	Harvest	AL	35749	(256) 924- 8933509-7760	AL: 2
<u>Stefaniak, David &amp; Holly</u>	<u>20278 Capitol Hill Dr.</u>	<u>Tanner</u>	<u>AL</u>	<u>35671</u>	<u>(256) 434-1734</u>	<u>AL: 1</u>
<u>Burley, Lisa</u>	<u>1616 West Morris Avenue</u>	<u>Fresno</u>	<u>CA</u>	<u>93711</u>	<u>(559) 779-2969</u>	<u>CA: 1</u>
Rotner, Dan & Shelton, Brian	5242 Silverwood Dr	Johnstown	CO	80534	(970) 222-1946	CO: 1
<del>Ingle, Mark &amp; Debbie</del>	7540 Dawn Dr	Littleton	CO	80125	(720) 916-1571	CO: 1
<u>Tennal, Amy</u>	<u>5594 West 118th Place</u>	<u>Westminster</u>	<u>CO</u>	<u>80020</u>	<u>(720) 722-3085</u>	<u>CO: 1</u>
<u>Barnes, Ray &amp; Young, Josh</u>	<u>41A Eagle Rd.</u>	<u>Danbury</u>	<u>CT</u>	<u>6810</u>	<u>(475) 218-1505</u>	<u>CT: 1</u>
<u>Wallen, Marisa &amp; Jeremy</u>	<u>6420 CR 569</u>	<u>Center Hill</u>	<u>FL</u>	<u>33514</u>	<u>(352) 593-0293</u>	<u>FL: 1</u>
<u>Bartlett, Russell &amp; Karen</u>	<u>7512 Sears Boulevard</u>	<u>Pensacola</u>	<u>FL</u>	<u>32514</u>	<u>(850) 262-8217</u>	<u>FL: 1</u>
Mahar, Mike	106 Seattle Slew	Canton	GA	30115	(678) 439-1222	GA: 23
Kinney, Marc & Marilyn	185 Cline Smith Rd	Cartersville	GA	30121	(678) 383-7474	GA: 42
<u>Schrader, Richard &amp; Kathy</u>	<u>2893 Thurleston Lane</u>	<u>Duluth</u>	<u>GA</u>	<u>30097</u>	<u>(706) 915-3836</u>	<u>GA: 1</u>
<del>Riser, Daryl &amp; Lisa</del> <del>Lomax, Cole</del>	<del>1331 Sandy Creek</del> <del>3324 High Falls Rd</del>	<del>Madison</del> <del>Jackson</del>	<del>GA</del>	<del>30650</del> <del>30233</del>	<del>(770) 851-2812</del> <del>(678) 588-8416</del>	<del>GA: 42</del>
<u>Neely, Calvin</u>	<u>80 Wood Valley</u>	<u>LaGrange</u>	<u>GA</u>	<u>30240</u>	<u>(706) 957-0870</u>	<u>GA: 1</u>
<u>Fuller, Paul &amp; Haley</u>	<u>15945 106th Avenue</u>	<u>Davenport</u>	<u>IA</u>	<u>52804</u>	<u>(563) 296-0157</u>	<u>IA: 1</u>
<u>Booms, Jon &amp; Rachel</u>	<u>6450 White Gate Court</u>	<u>Marion</u>	<u>IA</u>	<u>52302</u>	<u>(319) 893-2286</u>	<u>IA: 1</u>
<del>Baker, Tyler &amp; Emily</del>	2850 Tunnel Mill Rd	Webster City	IA	50595	(515) 835-0052	IA: 42
<u>Wilmes, Chris &amp; Leslie</u>	<u>467 East Andes Drive</u>	<u>Meridian</u>	<u>ID</u>	<u>83642</u>	<u>(208) 680-1822</u>	<u>ID: 1</u>
<u>Anti, Steven &amp; Stacey</u>	<u>5717 North Northcott Avenue</u>	<u>Chicago</u>	<u>IL</u>	<u>60631</u>	<u>(224) 725-3792</u>	<u>IL: 1</u>
<u>Hanner, Wes &amp; Charles</u>	<u>801 W. Church St</u>	<u>Savoy</u>	<u>IL</u>	<u>61874</u>	<u>(217) 722-1623</u>	<u>IL: 1</u>
<u>Taylor, Derek &amp; Dean</u>	<u>1911 Bell Rd.</u>	<u>Chandler</u>	<u>IN</u>	<u>47610</u>	<u>(812) 250-1328</u>	<u>IN: 1</u>
<u>Burtraw, Trevor</u>	<u>1511 Cliftwood Drive</u>	<u>Clarksville</u>	<u>IN</u>	<u>47129</u>	<u>(502) 419-2112</u>	<u>IN: 1</u>
Heilshorn, Billy & Amy	8134 N. Clinton St.	Fort Wayne	IN	46825	(260) 440-6444	IN: 2
<u>Cole, Dawn</u>	<u>550 North Union Street</u>	<u>Gary</u>	<u>IN</u>	<u>46403</u>	<u>(219) 973-4396</u>	<u>IN: 1</u>
<u>Greene, Steve &amp; Noblitt, Levi</u>	<u>30555 Raintree Dr.</u>	<u>Granger</u>	<u>IN</u>	<u>46530</u>	<u>(574) 675-1902</u>	<u>IN: 1</u>
<u>Farah, Jeanne &amp; Kenadid</u>	<u>9694 Decatur Drive</u>	<u>Indianapolis</u>	<u>IN</u>	<u>46256</u>	<u>(317) 902-9310</u>	<u>IN: 1</u>
<u>Popov, Tony</u>	<u>7643 Dean Road</u>	<u>Indianapolis</u>	<u>IN</u>	<u>46240</u>	<u>(812) 287-9080</u>	<u>IN: 1</u>
Valiant, Tim	226 North Wilmington Lane	Lafayette	IN	47905	(765) 746-6814	IN: 23
<u>Pocock, Drew &amp; Valerie</u>	<u>5780 South Old US Highway</u> <u>27</u>	<u>Pleasant Lake</u>	<u>IN</u>	<u>46779</u>	<u>(260) 319-6910</u>	<u>IN: 1</u>



Franchisee	Address	City	State	Zip Code	Phone	Outlets Operated
<u>Douglas, Matt</u>	130 Aspen Lane	<u>Lawrence</u>	KS	66049	(785) 289-5099	KS: 1
<u>Porter, Kristie &amp; Rob</u>	22621 West 49th Street	<u>Shawnee</u>	KS	66226	(913) 229-4394	KS: 1
<u>Gerber, Trish &amp; Shon</u>	1018 East Pembroke Road	<u>Derby</u>	KY	67037	(316) 308-7638	KS: 1
<u>Lamb, Scott &amp; Lisa</u>	410 Jake Street	Richmond	KY	40475	(859-) 407-0525	KY: 34
<u>Harbin, Ben</u>	82 Alfred Lane	<u>Shepherdsville</u>	KY	40165	(270) 872-7997	KY: 1
<u>Nicholson, Todd</u>	3867 Plaza Tower Drive	<u>Baton Rouge</u>	LA	70816	(337) 764-6443	LA: 1
<u>Dickson, Scott &amp; Sharon</u>	267 Jim Finley Road	<u>Calhoun</u>	LA	71225	(318) 610-8828	LA: 1
<u>Juncker, Roy</u>	609 Fairfield Avenue	<u>Gretna</u>	LA	70056	(504) 457-1530	LA: 1
<u>Jacobs, Chuck &amp; Leigh</u>	23327 White Elm Court	<u>California</u>	MD	20619	(240) 309-3033	MD: 1
Shuman, Steve	6608 Gleaming Sand Chase	Columbia	MD	21044	(443) 878-6109 718-0246	MD: 1
<u>Elmore, Joni &amp; Claude</u>	3326 East Joppa Road	<u>Parkville</u>	MD	21234	(443) 652-2600	MD: 1
<u>Leftridge, Terry &amp; Rose</u>	4516 Oak Ridge Dr.	<u>Street</u>	MD	21154	(410) 303-9000	MD: 1
<u>Amin, Kunal</u>	424 North Church St.	<u>Thurmont</u>	MD	21788	(301) 799-3873	MD: 1
Walker, Skyler	5856 Birchcrest Drive	Saginaw	MI	48638	(989) 297-1142	MI: 42
<u>Plocharczyk, Sheena &amp; Leonard</u>	4317 Earl Ct	<u>Ypsilanti</u>	MI	48197	(734) 249-8145	MI: 1
<u>Devere, Libby</u>	1101 Southwest 8th Street	<u>Grand Rapids</u>	MN	55744	(218) 398-4110	MN: 1
<u>Kingree, Richie &amp; Kristi</u>	2816 Whitetail Estates	Barnhart	MO	63012	(314) 649-3777	MO: 42
<u>Cook, Chris &amp; Cathy</u>	2400 Corona Road	<u>Columbia</u>	MO	65203	(573) 819-5432	MO: 1
<u>Murphree, Dale &amp; Murphree, Curtis</u>	19805 NE 129th St	Kearney	MO	64060	(816) 476-7835	MO: 1
Daleo, Robert	1402 Devonshire County Drive	Wentzville	MO	63385	(636) 344-9363	MO: 23
<u>Kimball, Chris &amp; Suzanne</u>	309 North Jackson Street	<u>Poplarville</u>	MS	39470	(601) 337-1069	MS: 1
<u>Nelson, Reginald</u>	5415 Eneida Sue Drive	<u>Charlotte</u>	NC	28214	(980) 420-3411	NC: 1
<u>Pounds, Jim</u>	671 Godley Road	<u>Grimesland</u>	NC	27837	(252) 320-7367	NC: 1
<u>Cribb, Stephen &amp; Pam</u>	510 Marlboro St	Hamlet	NC	28345	(910) 995-2963	NC: 1
<u>Engelhard, David &amp; Leslie</u>	5043-A Mattie Street	<u>Morehead City</u>	NC	28557	(252) 422-8667	NC: 1
<u>Rewczuk, Lori &amp; Peyton</u>	18101 S. 228th St	Gretna	NE	68028	(402) 350-5347	NE: 42
<u>Ivey, Doug &amp; Beth</u>	1530 West Silverado Drive	<u>Lincoln</u>	NE	68521	(402) 417-0078	NE: 1
Placencio, Keith	1920 Martha Drive	Las Cruces	NM	88001	(915) 255-0605	NM: 1
<u>Peters, Robert</u>	4690 Longley Lane	<u>Reno</u>	NV	89502	(775) 409-6995	NV: 1
<u>Nitti, Scott &amp; Nicole &amp; Scott</u>	90 Ridgeway Estates	Rochester	NY	14626	(585-) 566-2866	NY: 2
<u>Holibaugh, Joey &amp; Tiffany</u>	2853 Westway Drive Suite B	<u>Brunswick</u>	OH	44212	(440) 539-0529	OH: 1
<u>Humm, Scott &amp; Balko, Matt</u>	2119 Stonecliff Drive	<u>Findlay</u>	OH	45840	(419) 348-6506	OH: 1
<u>Crites, Scott</u>	651 Brumfield Road	<u>Lancaster</u>	OH	43130	(740) 412-3933	OH: 1
<u>Andrews, Sandra &amp; Ted/Woodard, Blaise &amp; Lewis</u>	8717 Woolstone Court	<u>Maineville</u>	OH	45039	(412) 498-9444	OH: 2
Murphy, Heather	2471 Orchid St NW	North Canton	OH	44720	(330) 356-9623	OH: 1

Franchisee	Address	City	State	Zip Code	Phone	Outlets Operated
<u>Church, Michelle</u>	10080 Ohio 550	Vincent	OH	45784	(740) 202-9606	OH: 1
<u>Lindsey, Joe</u>	12609 Southwest 24th Street	Yukon	OK	73099	(405) 796-9540	OK: 1
<u>Thompson, Cynthia &amp; Michael</u>	19777 US HWY 97 S	Klamath	OR	97603	(541) 205-9180	OR: 1
<u>Russell, Matt</u>	1638 Fieldstone St.	Allentown	PA	18106	(484) 239-3319	PA: 1
<u>Radziwon, Randy &amp; Nancy</u>	805 Cleardale Dr	Greensburg	PA	15601	(724) 420-7676	PA: 42
<u>Davis, Craig &amp; Debbie</u>	26 Bugler Dr	New Oxford	PA	17350	(717) 353-5011	PA: 42
<u>Egli, Andrew &amp; Mlinac, Ross</u>	1201 Parkway View Dr.	Pittsburgh	PA	15205	(412) 498-9444	PA: 1
<u>Buchan, Daniel &amp; Jamie</u>	P.O. Box 41161	Charleston	SC	29423	(843) 882-4402	SC: 1
<u>Buckley, Barbie &amp; Mark</u>	2895 Summertrees Blvd	Johns Island	SC	29455	(843) 830-9966	SC: 1
<u>Hyatt, DeLynn &amp; Kristin &amp; DeLynn</u>	867 Kemper Church Road	Lake View	SC	29563	(843) 845-3197	SC: 1
<u>Mackey, Scott &amp; Angela</u>	141 Talley Scott Road	Piedmont	SC	29673	(864) 380-0154	SC: 1
<u>Ruger, Stacia Rodriguez, William</u>	1056 Casterock Dr 1311 Anderton Road	Bell Buckle Clarksville	TN	3704237020	(931) 801-5611 (615) 663-5237	TN: 1
<u>Howard, Ben &amp; Claire</u>	3025 Blackwood Dr 173 Village Circle	Nashville Lebanon	TN	3721437087	(615-) 490-4026	TN: 42
<u>Witt, Derek &amp; Carrie</u>	10412 Cobb Lane	Mascot	TN	37806	(865) 800-4246	TN: 1
<u>Lyon, Landon &amp; Melinda</u>	580 U.S. 70 SET 102	Pegram	TN	37143	(615) 512-1334	TN: 1
<u>Spring, Richard</u>	15157 North State Hwy 94	Apple Springs	TX	75926	(936) 219-0693	TX: 1
<u>Reese, Wayne &amp; Diana</u>	7701 White Fawn Rd	Arlington	TX	76002	(214-) 997-1219	TX: 2
<u>Reeder, Karey &amp; Shelton, Susan</u>	144 S Reeder Hill	Buffalo	TX	75831	(903) 388-6649	TX: 1
<u>Rosas, Rudy &amp; Christina</u>	2533 Cresterrace Drive	Corpus Christi	TX	78415	(361) 588-8667	TX: 1
<u>Garza, Rene and Christy</u>	6005 Bobtail Drive	Corpus Christi	TX	78414	(361) 688-9351	TX: 42
<u>Fiveash, Nick &amp; Christina</u>	6202 Lennox Ln	Garland	TX	75043	(945) 400-3699	TX: 1
<u>Hammond, Lee Ann</u>	4626 County Rd 2200	Greenville	TX	75402	(469) 659-9491	TX: 42
<u>Pharis, Mike &amp; Natasha</u>	132247 Circle N Drive E	Helotes	TX	78023	(210) 846-0421	TX: 1
<u>Sinclair, Cherie</u>	1802 Afton St	Houston	TX	77055	(713-) 300-1210	TX: 23
<u>Dibble, Keith &amp; Sandy</u>	4616 Cattail Lane 3630 E Loop Drive	Longview	TX	7560475602	(903-) 431-2215	TX: 42
<u>Kashuda, Mark &amp; Theresa</u>	3110 Gray Thrush	Missouri City	TX	77459	(832) 820-8607	TX: 42
<u>Manning, Jesse &amp; Sandy</u>	1351 Weltner Road	New Braunfels	TX	78130	(830) 627-9000	TX: 1
<u>Holleman, Steve &amp; Paige</u>	8304 Juniper Drive	North Richland Hills	TX	76182	(817) 939-9805	TX: 42
<u>Alexander, Joe &amp; Amy</u>	610 Gerry Lane	Red Oak	TX	75154	(817) 925-7261	TX: 2
<u>Rodriguez, Carlos</u>	5929 Lyndhurst Drive	San Angelo	TX	76901	(325) 218-3009	TX: 1
<u>Hargrove, Justin &amp; Tara</u>	2405 Kensington Dr	Tyler	TX	75703	(903) 287-7484	TX: 2
<u>Kapavik, John &amp; Jessica</u>	P.O. Box 295	West	TX	76691	(254) 265-7878	TX: 42
<u>Becerra, Annysa &amp; Lowe, Josh</u>	1657 North 400 West	Orem	UT	84057	(385) 323-2226	UT: 1

Franchisee	Address	City	State	Zip Code	Phone	Outlets Operated
<u>Dearing, Tim &amp; Mittelstaedt Joel</u>	<u>11120 Air Park Road</u>	<u>Ashland</u>	<u>VA</u>	<u>23005</u>	<u>(804) 283-0649</u>	<u>VA: 1</u>
<u>Bourroughs, Noel</u>	<u>4722 Caronia Way</u>	<u>Fairfax</u>	<u>VA</u>	<u>22030</u>	<u>(703) 216-3085</u>	<u>VA: 1</u>
Dietzen, Jon	3700 Woodside Ct	Appleton	WI	54913	(920) 284-1265	WI: 42
<u>Sterken, Jamie &amp; Jamison</u>	<u>681 Shady Lane</u>	<u>Oconomowoc</u>	<u>WI</u>	<u>53066</u>	<u>(262) 269-3381</u>	<u>WI: 1</u>
Sanfleben, Scott & Dorothy	322 Meadowside Dr	Verona	WI	53593	(608-) 347-1514	WI: 1
<u>Hall, Nathaniel &amp; Jess</u>	<u>510 South Queen St</u>	<u>Martinsburg</u>	<u>WV</u>	<u>25401</u>	<u>(681) 416-1377</u>	<u>WV: 1</u>

### Franchisees with Unopened Outlets as of December 31, ~~2022~~2023:

None

### Former Franchisees:

The name and last known address of every franchisee who had a Travelin' Tom's Coffee Franchise transferred, terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under our Franchise Agreement during the period January 1, ~~2022~~2023 to December 31, ~~2022~~2023, or who has not communicated with us within ten weeks of the Issuance Date of this Franchise Disclosure Document are listed below. If you buy this Franchise, your contact information may be disclosed to other buyers when you leave the Franchise System.

None

<u>Franchisee</u>	<u>Street</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>	<u>Phone</u>	<u>Outlets Closed</u>
<u>Riser, Daryl &amp; Lisa</u>	<u>1331 Sandy Creek Road</u>	<u>Madison</u>	<u>GA</u>	<u>30650</u>	<u>(706) 688-9693</u>	<u>GA: 1</u>
<u>Ruger, Stacia</u>	<u>1056 Casterock Dr</u>	<u>Clarksville</u>	<u>TN</u>	<u>37042</u>	<u>(931) 801-5611</u>	<u>TN: 1</u>

**EXHIBIT GH**

**STATE ADDENDA  
AND AGREEMENT RIDERS**

## STATE ADDENDA AND AGREEMENT RIDERS

### ADDENDUM TO FRANCHISE AGREEMENT, SUPPLEMENTAL AGREEMENTS, AND FRANCHISE DISCLOSURE DOCUMENT FOR CERTAIN STATES FOR MOBILE COFFEE COMPANY, LLC

The following modifications are made to the Mobile Coffee Company, LLC (“**Franchisor**,” “**us**,” “**we**,” or “**our**”) Franchise Disclosure Document (“**FDD**”) given to franchisee (“**Franchisee**,” “**you**,” or “**your**”) and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement between you and us dated \_\_\_\_\_, 20\_\_\_\_ (“**Franchise Agreement**”). When the term “**Franchisor’s Choice of Law State**” is used, it means Kentucky. When the term “**Supplemental Agreements**” is used, it means “~~none~~Area Development Agreement”.

Certain states have laws governing the franchise relationship and franchise documents. Certain states require modifications to the FDD, Franchise Agreement and other documents related to the sale of a franchise. This State Specific Addendum (“**State Addendum**”) will modify these agreements to comply with the state’s laws. The terms of this State Addendum will only apply if you meet the requirements of the applicable state independently of your signing of this State Addendum. The terms of this State Addendum will override any inconsistent provision of the FDD, Franchise Agreement or any Supplemental Documents. This State Addendum only applies to the following states: California, Hawaii, Illinois, Iowa, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Ohio, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

If your state requires these modifications, you will sign this State Addendum along with the Franchise Agreement and any Supplemental Agreements.

#### **CALIFORNIA**

**The registration of this franchise offering by the California Department of Financial Protection and Innovation does not constitute approval, recommendation, or endorsement by the commissioner.**

\_\_\_\_\_ The California Franchise Investment Law requires a copy of all proposed agreements relating to the sale of the Franchise be delivered together with the FDD 14 days prior to execution of agreement.

California Corporations Code Section 31125 requires us to give to you an FDD approved by the Department of Financial Protection and Innovation before we ask you to consider a material modification of your Franchise Agreement.

The Franchise Agreement contains, and if applicable, the Supplemental Agreements may contain, provisions requiring binding arbitration with the costs being awarded to the prevailing party. The arbitration will occur in Kentucky. 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 the Franchise Agreement or Supplemental Agreements restricting venue to a forum outside the State of California. The Franchise Agreement ~~may contain~~contains a mediation provision. ~~If so, the~~The parties shall each bear their own costs of mediation and shall share equally the filing fee and the mediator’s fees.

The Franchise Agreement and Supplemental Agreements require the application of the law of Kentucky. This provision may not be enforceable under California law.



Neither Franchisor nor any other person listed in Item 2 of the FDD is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a et seq., suspending or expelling such persons from membership in such association or exchange.

California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination, transfer, or non-renewal of a franchise. If the Franchise Agreement or Supplemental Agreements contain a provision that is inconsistent with the California Franchise Investment Law, the California Franchise Investment Law will control.

The Franchise Agreement and Supplemental Agreements ~~may~~ provide for termination upon bankruptcy. Any such provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. SEC. 101 et seq.).

The Franchise Agreement contains, and if applicable, the Supplemental Agreements may contain, a covenant not to compete provision which extends beyond the termination of the Franchise. Such provisions may not be enforceable under California law.

Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable. Any such provisions contained in the Franchise Agreement or Supplemental Agreements may not be enforceable.

You must sign a general release of claims if you renew or transfer your Franchise. California Corporations Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).

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.dfpi.ca.gov](http://www.dfpi.ca.gov).

Item 6 of the FDD is amended to state the highest interest rate allowed by law in California is 10% annually.

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.

#### Fee Deferral

The Department of Financial Protection and Innovation has determined that we, the franchisor, have not demonstrated we are adequately capitalized and/or that we must rely on franchise fees to fund our operations. The Commissioner has imposed a fee deferral condition, which requires that we defer the collection of all initial fees from California franchisees until we have completed all of our pre-opening obligations and you are open for business.

## **HAWAII**

The following is added to the Cover Page:

**THIS FRANCHISE WILL BE/HAS BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS THAT THE INFORMATION PROVIDED IN THIS FRANCHISE DISCLOSURE DOCUMENT 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 YOU OR SUBFRANCHISOR AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY YOU OR SUBFRANCHISOR OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY YOU, WHICHEVER OCCURS FIRST, A COPY OF THE FRANCHISE DISCLOSURE DOCUMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.**

**THIS FRANCHISE DISCLOSURE DOCUMENT 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 US AND YOU.**

Registered agent in the state authorized to receive service of process:

Commissioner of Securities of the State of Hawaii  
Department of Commerce and Consumer Affairs  
Business Registration Division  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813

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.

The status of the Franchisor's franchise registrations in the states which require registration is as follows:

1. States in which this proposed registration is effective are listed on the third page of the FDD on the page entitled, "State Effective Dates."
2. States which have refused, by order or otherwise, to register these Franchises are:

None

3. States which have revoked or suspended the right to offer the Franchises are:

None

4. States in which the proposed registration of these Franchises has been withdrawn are:

None

### Fee Deferral

Items 5 and 7 of the FDD and Section 46 of the Franchise Agreement are amended to state: Based upon the franchisor's financial condition, the Hawaii Department of Commerce and Consumer Affairs has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the Franchise Agreement and the franchise is opened for business.

### ILLINOIS

Sections 4 and 41 and Rule 608 of the Illinois Franchise Disclosure Act states that court litigation must take place before Illinois federal or state courts and all dispute resolution arising from the terms of this Agreement or the relationship of the parties and conducted through arbitration or litigation shall be subject to Illinois law. The FDD, Franchise Agreement and Supplemental Agreements are amended accordingly.

The governing law or choice of law clause described in the FDD and contained in the Franchise Agreement and Supplemental Agreements is not enforceable under Illinois law. This governing law clause shall not be construed to negate the application of Illinois law in all situations to which it is applicable.

Section 41 of the Illinois Franchise Disclosure Act states that "any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act or any other law of this State is void." The Franchise Agreement is amended accordingly. To the extent that the Franchise Agreement would otherwise violate Illinois law, such Agreement is amended by providing that all litigation by or between you and us, arising directly or indirectly from the Franchise relationship, will be commenced and maintained in the state courts of Illinois or, at our election, the United States District Court for Illinois, with the specific venue in either court system determined by appropriate jurisdiction and venue requirements, and Illinois law will pertain to any claims arising under the Illinois Franchise Disclosure Act.

Item 17.v, Choice of Forum, of the FDD is revised to include the following: "provided, however, that the foregoing shall not be considered a waiver of any right granted upon you by Section 4 of the Illinois Franchise Disclosure Act."

Item 17.w, Choice of Law, of the FDD is revised to include the following: "provided, however, that the foregoing shall not be considered a waiver of any right granted upon you by Section 4 of the Illinois Franchise Disclosure Act."

The termination and non-renewal provisions in the Franchise Agreement and the FDD may not be enforceable under Sections 19 and 20 of the Illinois Franchise Disclosure Act.

Under Section 705/27 of the Illinois Franchise Disclosure Act, no action for liability under the Illinois Franchise Disclosure Act can be maintained unless brought before the expiration of three years after

the act or transaction constituting the violation upon which it is based, the expiration of one year after you become aware of facts or circumstances reasonably indicating that you may have a claim for relief in respect to conduct governed by the Act, or 90 days after delivery to you of a written notice disclosing the violation, whichever shall first expire. To the extent that the Franchise Agreement is inconsistent with the Illinois Franchise Disclosure Act, Illinois law will control and supersede any inconsistent provision(s).

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.

#### Franchise Fee Deferral

The Illinois Attorney General's Office has imposed the Franchise Fee deferral requirement due to our financial condition. Items 5 and 7 of the FDD and Section 46 of the Franchise Agreement are hereby revised to state that payment of the Initial Franchise Fee, shall be deferred until after all of Franchisor's initial obligations are complete and the Franchise is open for business.

**See the last page of this Exhibit for your signature.**

#### INDIANA

Item 8 of the FDD is amended to add the following:

Under Indiana Code Section 23-2-2.7-1(4), we will not accept any rebates from any person with whom you do business or associate in relation to transactions between you and the other person, other than for compensation for services rendered by us, unless the rebate is properly accounted for and submitted to you.

Item 17 of the FDD is amended to add the following:

Indiana Code 23-2-2.7-1(7) makes it unlawful for us to unilaterally terminate your Franchise Agreement unless there is a material violation of the Franchise Agreement and termination is not in bad faith.

Indiana Code 23-2-2.7-1(5) prohibits us to require you to agree to a prospective general release of claims subject to the Indiana Deceptive Franchise Practices Act.

The "Summary" column in Item 17.r. of the FDD is deleted and the following is inserted in its place:

No competing business for two (2) years within the Protected Territory.

The "Summary" column in Item 17.t. of the FDD is deleted and the following is inserted in its place:

Notwithstanding anything to the contrary in this provision, you do not waive any right under the Indiana Statutes with regard to prior representations made by us.

The “Summary” column in Item 17.v. of the FDD is deleted and the following is inserted in its place:

Litigation regarding Franchise Agreement in Indiana; other litigation in Franchisor’s Choice of Law State. This language has been included in this Franchise Disclosure Document as a condition to registration. The Franchisor and the Franchisee do not agree with the above language and believe that each of the provisions of the Franchise Agreement, including all venue provisions, is fully enforceable. The Franchisor and the Franchisee intend to fully enforce all of the provisions of the Franchise Agreement and all other documents signed by them, including but not limited to, all venue, choice-of-law, arbitration provisions and other dispute avoidance and resolution provisions and to rely on federal pre-emption under the Federal Arbitration Act.

The “Summary” column in Item 17.w. of the FDD is deleted and the following is inserted in its place:

Indiana law applies to disputes covered by Indiana franchise laws; otherwise Franchisor’s Choice of Law State law applies.

Despite anything to the contrary in the Franchise Agreement, the following provisions will supersede and apply to all Franchises offered and sold in the State of Indiana:

1. The laws of the State of Indiana supersede any provisions of the FDD, the Franchise Agreement, or Franchisor’s Choice of Law State law, if such provisions are in conflict with Indiana law.
2. The prohibition by Indiana Code 23-2-2.7-1(7) against unilateral termination of the Franchise without good cause or in bad faith, good cause being defined under law as including any material breach of the Franchise Agreement, will supersede the provisions of the Franchise Agreement relating to termination for cause, to the extent those provisions may be inconsistent with such prohibition.
3. Any provision in the Franchise Agreement that would require you to prospectively assent to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by the Indiana Deceptive Franchise Practices Law is void to the extent that such provision violates such law.
4. The covenant not to compete that applies after the expiration or termination of the Franchise Agreement for any reason is hereby modified to the extent necessary to comply with Indiana Code 23-2-2.7-1 (9).
5. The following provision will be added to the Franchise Agreement:

No Limitation on Litigation. Despite the foregoing provisions of this Agreement, any provision in the Agreement which limits in any manner whatsoever litigation brought for breach of the Agreement will be void to the extent that any such contractual provision violates the Indiana Deceptive Franchise Practices Law.

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

## **IOWA**

Any provision in the Franchise Agreement or Compliance Questionnaire which would require you to prospectively assent to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by the Iowa Business Opportunity Promotions Law (Iowa Code Ch. 551A) is void to the extent that such provision violates such law.

The following language will be added to the Franchise Agreement:

### **NOTICE OF CANCELLATION**

\_\_\_\_\_ (enter date of transaction)

You may cancel this transaction, without penalty or obligation, within three business days from the above date. If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence or business address, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do not agree to return the goods to the seller or if the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice to Mobile Coffee Company, LLC, 5945 Centennial Circle, Florence, Kentucky 41042, or send a fax to Mobile Coffee Company, LLC at (859) 282-9890 not later than midnight of the third business day after the Effective Date.

I hereby cancel this transaction.

Franchisee: \_\_\_\_\_

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

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

Its: \_\_\_\_\_

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

## **MARYLAND**

### **AMENDMENTS TO FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENTS AND FRANCHISE DISCLOSURE QUESTIONNAIRE**

Item 17 of the FDD and the Franchise Agreement are amended to state: “The general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.”

Item 17 of the FDD and sections of the Franchise Agreement are amended to state that you may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the Franchise.

The Franchise Agreement and Franchise Disclosure Questionnaire are amended to state that all representations requiring prospective franchisees to assent to a release, estoppel, or waiver of liability are not intended to, nor shall they act as a release, estoppel, or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

The 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.).

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.

#### **Fee Deferral**

Items 5 and 7 of the FDD and the Franchise Agreement are amended to state: Based upon the franchisor’s financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the Franchise Agreement.

## **MICHIGAN**

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

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

- (a) A prohibition on your right to join an association of franchisees.



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

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

(d) A provision that permits us to refuse to renew your Franchise without fairly compensating you by repurchase or other means for the fair market value at the time of expiration of your inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to us 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 five (5) years; and (ii) you are prohibited by the Franchise Agreement 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 you do not receive at least six (6) months' advance notice of our intent not to renew the Franchise.

(e) A provision that permits us 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 the State of Michigan. This shall not preclude you from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.

(g) A provision which permits us to refuse to permit a transfer of ownership of a Franchise, except for good cause. This subdivision does not prevent us 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 our then-current reasonable qualifications or standards.
- (ii) the fact that the proposed transferee is a competitor of us or our subfranchisor.
- (iii) the unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
- (iv) your or proposed transferee's failure to pay any sums owing to us or to cure any default in the Franchise Agreement existing at the time of the proposed transfer.

(h) A provision that requires you to resell to us items that are not uniquely identified with us. This subdivision does not prohibit a provision that grants to us 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 us the right to acquire the assets of a Franchise for the market or appraised value of such assets if you have breached the lawful provisions of the Franchise Agreement and have failed to cure the breach in the manner provided in subdivision (c).



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

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

Any questions regarding this notice should be directed to:

State of Michigan  
Department of Attorney General  
Consumer Protection Division  
Attn: Franchise  
670 Law Building  
525 W. Ottawa Street  
Lansing, Michigan 48913  
Telephone Number: (517) 373-7117

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.

## **MINNESOTA**

Despite anything to the contrary in the Franchise Agreement, the following provisions will supersede and apply to all Franchises offered and sold in the State of Minnesota:

1. Any provision in the Franchise Agreement which would require you to assent to a release, assignment, novation or waiver that would relieve any person from liability imposed by Minnesota Statutes, Sections 80C.01 to 80C.22 will be void to the extent that such contractual provision violates such law.
2. Minnesota Statute Section 80C.21 and Minnesota Rule 2860.4400J prohibit the franchisor from requiring litigation to be conducted outside of Minnesota. In addition, nothing in the FDD or Franchise Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of Minnesota.
3. Minn. Rule Part 2860.4400J. prohibits a franchisee from waiving his rights to a jury trial or waiving his 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. Any provision in the Franchise Agreement which would require you to waive your rights to any procedure, forum or remedies provided for by the laws of the State of Minnesota is deleted from any agreement relating to Franchises offered and sold in the State of Minnesota; provided, however, that this paragraph will not affect the obligation in the Franchise Agreement relating to arbitration.

4. With respect to Franchises governed by Minnesota law, we will comply with Minnesota Statute Section 80C.14, Subds. 3, 4 and 5, which require, except in certain specified cases, that you be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the Franchise Agreement; and that consent to the transfer of the Franchise will not be unreasonably withheld.
5. Item 13 of the FDD is hereby amended to state that we will protect your rights under the Franchise Agreement to use the Marks, or indemnify you from any loss, costs, or expenses arising out of any third-party claim, suit or demand regarding your use of the Marks, if your use of the Marks is in compliance with the provisions of the Franchise Agreement and our System Standards.
6. Minnesota Rule 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release. As a result, the FDD and the Franchise Agreement, which require you to sign a general release prior to renewing or transferring your Franchise, are hereby deleted from the Franchise Agreement, to the extent required by Minnesota law.
7. The following language will appear as a new paragraph of the Franchise Agreement:

No Abrogation. Pursuant to Minnesota Statutes, Section 80C.21, nothing in the dispute resolution section of this Agreement will in any way abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80.C.
8. Minnesota Statute Section 80C.17 states that no action for a violation of Minnesota Statutes, Sections 80C.01 to 80C.22 may be commenced more than three years after the cause of action accrues. To the extent that the Franchise Agreement conflicts with Minnesota law, Minnesota law will prevail.
9. Item 6 of the FDD and Section 4-G6.2 of the Franchise Agreement is hereby amended to limit the Insufficient Funds Charge to \$30 per occurrence pursuant to Minnesota Statute 604.113.
10. 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.

#### Fee Deferral

~~Items 5 and 7 of the FDD and Section 4 of the Franchise Agreement are amended to state: Payment of the Initial Franchise Fee shall be deferred until Franchisor has satisfied its pre-opening obligations to Franchisee and Franchisee has commenced doing business.~~

#### NEW YORK

1. The following information is added to the cover page of the Franchise Disclosure Document:

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SERVICES OR 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 FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN ~~THAT~~ ANYTHING IN THIS FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE APPROPRIATE STATE OR PROVINCIAL AUTHORITY. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR ~~CANNOT~~CAN NOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.

2. The following is added at the end of Item 3:

~~Except as provided~~With the exception of what is stated above, ~~with regard to the following applies to Franchisor~~the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the ~~Franchise System~~franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge, or within the ~~ten~~10-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State or Canadian franchise, securities, antitrust, trade regulation, or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of the "Summary" sections of Item 17(c), titled "**Requirements for franchisee to renew or extend,**" and Item 17(m), entitled "**Conditions for franchisor approval of transfer:**"

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this

proviso that the non-waiver provisions of General Business Law Sections 687(4) and 687(5) be satisfied.

4. The following language replaces the “Summary” section of Item 17(d), titled “**Termination by franchisee:**”

———”: You may terminate the agreement on any grounds available by law.

5. The following is added to the end of the “Summary” sections of Item 17(v), titled “**Choice of forum:**,” and Item 17(w), titled “**Choice of law:**”:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or ~~upon~~ the franchisee by Article 33 of the General Business Law of the State of New York.

6. Franchise Questionnaires and Acknowledgements - 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.

7. Receipts - Any sale made must be in compliance with § 683(8) of the Franchise Sale Act (N.Y. Gen. Bus. L. § 680 et seq.), which describes the time period a Franchise Disclosure Document (offering prospectus) must be provided to a prospective franchisee before a sale may be made. New York law requires a franchisor to provide the Franchise Disclosure Document at the earlier of the first personal meeting, ten (10) business days before the execution of the franchise or other agreement, or the payment of any consideration that relates to the franchise relationship.

## **NORTH DAKOTA**

Sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring that you sign a general release, estoppel or waiver as a condition of renewal and/or assignment may not be enforceable as they relate to releases of the North Dakota Franchise Investment Law.

Sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring resolution of disputes to be outside North Dakota may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Sections of the FDD, the Franchise Agreement, and the Supplemental Agreements relating to choice of law may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Any section of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring you to consent to liquidated damages and/or termination penalties may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Any sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring you to consent to a waiver of trial by jury may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Any sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring you to consent to a waiver of exemplary and punitive damages may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Item 17(r) of the FDD and ~~Sections 16D and 16G~~ Section 18 of the Franchise Agreement disclose the existence of certain covenants restricting competition to which Franchisee must agree. The Commissioner has held that covenants restricting competition contrary to Section 9-08-06 of the North Dakota Century Code, without further disclosing that such covenants may be subject to this statute, are unfair, unjust, or inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. The FDD and the Franchise Agreement are amended accordingly to the extent required by law.

Section ~~18.M27.7~~ of the Franchise Agreement requires franchisees to consent to a limitation of claims within one year. 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 amended accordingly to state the statute of limitations under North Dakota Law will apply.

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.

#### Fee Deferral:

Items 5 and 7 of the Franchise Disclosure Document and Section 46 of the Franchise Agreement regarding payment of the initial franchise fee are amended to state that the franchise fee will be deferred until all initial obligations owed to the Franchisee by the Franchisor have been fulfilled and the franchisee has commenced doing business pursuant to the Franchise Agreement.

### OHIO

The following language will be added to the front page of the Franchise Agreement:

You, the purchaser, may cancel this transaction at any time prior to midnight of the fifth business day after the date you sign this agreement. See the attached notice of cancellation for an explanation of this right.

Initials \_\_\_\_\_ Date \_\_\_\_\_

#### NOTICE OF CANCELLATION

\_\_\_\_\_ (enter date of transaction)

You may cancel this transaction, without penalty or obligation, within five (5) business days from the above date. If you cancel, any payments made by you under the agreement, and any negotiable instrument executed by you will be returned within ten (10) business days following the seller's receipt of your cancellation notice, and any security interest arising out of the transaction will be cancelled. If you cancel, you must make available to the seller at your business address all goods delivered to you under this agreement; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk. If you do make the goods available to the seller and the seller

does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of them without further obligation. If you fail to make the goods available to the seller, or if you agree to return them to the seller and fail to do so, then you remain liable for the performance of all obligations under this agreement. To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice to Mobile Coffee Company, LLC, 5945 Centennial Circle, Florence, Kentucky 41042, or send a fax to Mobile Coffee Company, LLC at (859) 282-9890 not later than midnight of the fifth business day after the Effective Date.

I hereby cancel this transaction.

Franchisee:

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

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

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

Its: \_\_\_\_\_

## **RHODE ISLAND**

§ 19-28.1-14 of the Rhode Island Franchise Investment Act provides that “A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act.” The FDD, the Franchise Agreement, and the Supplemental Agreements are amended accordingly to the extent required by law.

The above language has been included in this FDD as a condition to registration. The Franchisor and the Franchisee do not agree with the above language and believe that each of the provisions of the Franchise Agreement and the Supplemental Agreements, including all choice of law provisions, are fully enforceable. The Franchisor and the Franchisee intend to fully enforce all of the provisions of the Franchise Agreement, the Supplemental Agreements, and all other documents signed by them, including but not limited to, all venue, choice-of-law, arbitration provisions and other dispute avoidance and resolution provisions and to rely on federal pre-emption under the Federal Arbitration Act.

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

## **SOUTH DAKOTA**

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

## **Fee Deferral**

Item 5 and 7 of the Franchise Disclosure Document and the Franchise Agreement are hereby amended to state that the Initial Franchise Fee will be deferred until the Franchisor has completed all of its pre-opening obligations and the franchise is open for business. The following language will be added to the franchise agreement:

**MOBILE COFFEE COMPANY, LLC  
ACKNOWLEDGEMENT OF DEFERRAL OF INITIAL FRANCHISE FEE**

\_\_\_\_\_ (“Franchisee”) entered into a Franchise Agreement with Mobile Coffee Company, LLC (“Franchisor”) on \_\_\_\_\_, 20\_\_\_\_ for the operation of a Travelin’ Tom’s Coffee franchise in South Dakota. As a condition for Franchisor’s registration to offer franchises for sale in South Dakota, the South Dakota Department of Labor and Regulation, based on Franchisor’s financial condition, required Franchisor to defer the initial franchise fee for the purchase of such franchise until Franchisor has fulfilled all of its initial obligations under the Franchise Agreement and Franchisee has commenced doing business. This is an acknowledgement that such initial franchise fee has been deferred by Franchisor until such time.

**FRANCHISOR:**

**MOBILE COFFEE COMPANY, LLC**  
an Delaware limited liability company

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

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

**FRANCHISEE:**

\_\_\_\_\_

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

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

**VIRGINIA**

Item 17(h). The following is added to Item 17(h):

“Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to use undue influence to induce a franchisee to surrender any right given to him under the franchise. If any provision of the Franchise Agreement or Supplemental Agreements involve the use of undue influence by the Franchisor to induce a franchisee to surrender any rights given to franchisee under the Franchise, that provision may not be enforceable.”

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the FDD for Mobile Coffee Company, LLC for use in the Commonwealth of Virginia shall be amended as follows:

Additional Disclosure. The following statements are added to Item 8 and 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 grounds 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 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.

#### Fee Deferral

The Virginia State Corporation Commission’s Division of Securities and Retail Franchising requires us to defer payment of the initial franchise fee and other initial payments owed by franchisees to the franchisor until the franchisor has completed its pre-opening obligations under the franchise agreement.

#### WASHINGTON

#### WASHINGTON ADDENDUM TO THE FRANCHISE AGREEMENT, AREA DEVELOPMENT AGREEMENT, FRANCHISE DISCLOSURE QUESTIONNAIRE, AND FRANCHISE DISCLOSURE DOCUMENT, AND RELATED AGREEMENTS

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

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

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

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable. The above-referenced language contained in any agreement attached to this Franchise Disclosure Document does not apply to Washington franchisees per RCW 19.100. Section 18.127.6 of the Franchise Agreement states franchisee agrees to waive the right to a jury trial and Section 7 of the System Protection Agreement state franchisee agrees to waive any right to challenge the terms of the brand covenants as being overly broad, unreasonable or otherwise unenforceable. These provisions do not apply to Washington franchisees.

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



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

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

Sections 1.B(6), 1.B(7) and 1.B(10) of the Franchise Agreement do not apply to Washington franchisees.

RCW 19.100.220(2) provides that any agreement, condition, stipulation or provision purporting to bind any person to waive compliance with RCW 19.100 or any rule or order thereunder is void. As such, it is misleading and contravenes RCW 19.100.180(2)(g) to require a franchisee to limit the time period for claims beyond the limit imposed by the statute. Section ~~18-M27.7~~ of the Franchise Agreement is hereby revised to remove the one (1) year time limit provision.

RCW 19.100.180(1) provides that the franchisor deal with the franchisee in good faith and RCW 19.100.180(2)(j) sets forth limitations on termination and requirements for opportunities to cure set. As a result, any such provisions contained in the franchise agreement, including Section ~~18-A28~~ or elsewhere, may be void and unenforceable in Washington. Section ~~18-A28~~ of the Franchise Agreement shall be interpreted consistent with RCW 19.100.180.

A liquidated damages provision in a Franchise Agreement may be construed as a penalty under Washington law if the amount is found to bear no reasonable relation to actual damages. As a result, the liquidated damages provision in Item 6 of the FDD and the Franchise Agreement does not apply to Washington franchisees.

RCW 19.100.180 requires that a franchisor deal with a franchisee in good faith. As a result, the portion of Section ~~17-D22.1~~ of the Franchise Agreement that requires the franchisee to indemnify the Indemnified Party for the Indemnified Party's negligence does not apply to Washington franchisees.

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.

#### Franchise Fee Deferral:

Item 5 and Item 7 of the Franchise Disclosure Document and Section 46 of the Franchise Agreement are hereby amended to state that all Initial Fees will be deferred until the Franchisor completes

all of its training and other initial obligations to Franchisee and the Franchisee is open for business (listed in Item 11 of this Disclosure Document).

### **WISCONSIN**

The Wisconsin Fair Dealership Law, Chapter 135 of the Wisconsin Statutes supersedes any provision of the Franchise Agreement if such provision is in conflict with that law. The Franchise Disclosure Document, the Franchise Agreement and the Supplemental Agreements are amended accordingly.

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.

*(Signatures on following page)*

### APPLICABLE ADDENDA

If any one of the preceding Addenda for specific states (“**Addenda**”) is checked as an “Applicable Addenda” below, then that Addenda shall be incorporated into the Franchise Disclosure Document, Franchise Agreement and any other specified agreement(s) entered into by us and the undersigned Franchisee. To the extent any terms of an Applicable Addenda conflict with the terms of the Franchise Disclosure Document, Franchise Agreement and other specified agreement(s), the terms of the Applicable Addenda shall supersede the terms of the Franchise Agreement.

<input type="checkbox"/>	California	<input type="checkbox"/>	Michigan	<input type="checkbox"/>	Rhode Island
<input type="checkbox"/>	Hawaii	<input type="checkbox"/>	Minnesota	<input type="checkbox"/>	South Dakota
<input type="checkbox"/>	Illinois	<input type="checkbox"/>	New York	<input type="checkbox"/>	Virginia
<input type="checkbox"/>	Iowa	<input type="checkbox"/>	North Dakota	<input type="checkbox"/>	Washington
<input type="checkbox"/>	Indiana	<input type="checkbox"/>	Ohio	<input type="checkbox"/>	Wisconsin
<input type="checkbox"/>	Maryland				

Dated: \_\_\_\_\_, 20\_\_\_\_

#### **FRANCHISOR:**

MOBILE COFFEE COMPANY, LLC

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

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

#### **FRANCHISEE:**

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

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

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## EXHIBIT HI

### CONTRACTS FOR USE WITH THE TRAVELIN' TOM'S COFFEE FRANCHISE

The following contracts contained in Exhibit HI are contracts that Franchisee is required to utilize or execute after signing the Franchise Agreement in the operation of the Travelin' Tom's Business. The following are the forms of contracts that Mobile Coffee Company, LLC uses as of the Issuance Date of this Franchise Disclosure Document. If they are marked "Sample," they are subject to change at any time.

## EXHIBIT HI-1

### TRAVELIN' TOM'S COFFEE FRANCHISE

#### SAMPLE WAIVER AND RELEASE OF CLAIMS

This Waiver and Release of Claims ("Release") is made as of [DATE] by and among [Entity Name], d/b/a ["dba name"], a(n) [state] [entity name] ("Franchisee"), each of the undersigned individuals holding an ownership interest in Franchisee ("Owner(s),") and (collectively with Franchisee, "Releasors") Mobile Coffee Company, LLC, a Delaware limited liability company ("Franchisor," and together with Releasors, each, a "Party" and together, the "Parties").

**WHEREAS**, Franchisor and Franchisee have entered into a Franchise Agreement ("Agreement") pursuant to which Franchisee was granted the right to own and operate a Travelin' Tom's Business;

**WHEREAS**, (Franchisee has notified Franchisor of its desire to transfer the Agreement and all rights related thereto, or an ownership interest in Franchisee, to a transferee/enter into a successor franchise agreement/amend the Agreement) or (the Agreement is being terminated/or indicate other reason for the requirement of this waiver and release), and Franchisor has consented to such (transfer/successor franchise agreement/amendment/termination/other reason); and

**WHEREAS**, as a condition to Franchisor's consent to (transfer the Agreement/enter into a successor franchise agreement/amend the Agreement/terminate the Agreement/other reason), Releasors have agreed to execute this Release upon the terms and conditions stated below.

**NOW, THEREFORE**, in consideration of Franchisor's consent, and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, and intending to be legally bound, Releasors hereby agree as follows:

1. Representations and Warranties. Releasors represent and warrant they are duly authorized to enter into this Release and to perform the terms and obligations herein contained, and have not assigned, transferred, or conveyed, either voluntarily or by operation of law, any of their rights or claims against Franchisor or any of the rights, claims, or obligations being terminated and released hereunder. Each individual executing this Release on behalf of Franchisee represents and warrants that they are duly authorized to enter into and execute this Release on behalf of Franchisee. Releasors further represent and warrant that all individuals that currently hold a direct or indirect ownership interest in Franchisee are signatories to this Release.

2. Release. Releasors and their subsidiaries, affiliates, parents, divisions, successors, assigns, and all persons or firms claiming by, through, under, or on behalf of any or all of them, hereby release, acquit, and forever discharge Franchisor, any and all of their affiliates, parents, subsidiaries, or related companies, divisions, and partnerships, and its and their past and present officers, directors, agents, partners, shareholders, employees, representatives, successors, assigns, and attorneys, and the spouses of such individuals (collectively, the "Released Parties"), from any and all claims, liabilities, damages, expenses, actions, or causes of action which Releasor may now have or has ever had, whether known or unknown, past or present, absolute or contingent, suspected or unsuspected, of any nature whatsoever, including without limiting the generality of the foregoing, all claims, liabilities, damages, expenses, actions, or causes of action directly or indirectly arising out of or relating to the execution and performance of the Agreement and the offer and sale of the franchise related thereto, except to the extent such liabilities are payable by the applicable indemnified party in connection with a third-party claim.

3. Nondisparagement. Releasors expressly covenant and agree not to make any false representation of facts, or to defame, disparage, discredit, or deprecate any of the Released Parties or otherwise communicate with any person or entity in a manner intending to damage any of the Released Parties, their business, or their reputation.

4. Confidentiality. Releasors agree to hold in strictest confidence and not disclose, publish, or use the existence of, or any details relating to, this Release to any third party without Franchisor's express written consent, except as required by law.

5. Miscellaneous.

a. Releasors agree that they have read and fully understand this Release and that the opportunity has been afforded to Releasors to discuss the terms and contents of said Release with legal counsel and/or that such a discussion with legal counsel has occurred.

b. This Release shall be construed and governed by the laws of the State of Kentucky.

c. Each individual and entity that comprises Releasors shall be jointly and severally liable for the obligations of such Releasors.

d. In the event that it shall be necessary for any Party to institute legal action to enforce or for the breach of any of the terms and conditions or provisions of this Release, the prevailing Party in such action shall be entitled to recover all of its reasonable costs and attorneys' fees.

e. All of the provisions of this Release shall be binding upon and inure to the benefit of the Parties and their current and future respective directors, officers, partners, attorneys, agents, employees, shareholders, and the spouses of such individuals, successors, affiliates, and assigns. No other party shall be a third-party beneficiary to this Release.

f. This Release constitutes the entire agreement the Parties and, as such, supersedes all prior oral and written agreements or understandings between and among the Parties regarding the subject matter hereof. This Release may not be modified except in a writing signed by all of the Parties. This Release may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same document.

g. If one or more of the provisions of this Release shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect or impair any other provision of this Release, but this Release shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

h. Releasors agree to do such further acts and things and to execute and deliver such additional agreements and instruments as may be reasonably required to consummate, evidence, or confirm the Release contained herein in the matter contemplated hereby.

i. This Release is inapplicable with respect to claims arising under the Washington Franchise Investment Protection Act, chapter 19.100 RCW, and the rules adopted thereunder in accordance with RCW 19.100.220.

*(Signatures on following page)*

**IN WITNESS WHEREOF**, the Parties have executed this Waiver and Release of Claims as of the date first written above.

**FRANCHISEE:**

\_\_\_\_\_, a  
\_\_\_\_\_

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

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

Its: \_\_\_\_\_

**FRANCHISEE:**

\_\_\_\_\_, a  
\_\_\_\_\_

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

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

Its: \_\_\_\_\_

**FRANCHISEE:**

\_\_\_\_\_, a  
\_\_\_\_\_

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

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

Its: \_\_\_\_\_

**FRANCHISEE’S OWNERS:**

Date \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

**FRANCHISEE’S OWNERS:**

Date \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

**FRANCHISEE’S OWNERS:**

Date \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

Rev. 092122



## EXHIBIT HI-2

### TRAVELIN' TOM'S COFFEE FRANCHISE

#### SAMPLE SYSTEM PROTECTION AGREEMENT

This System Protection Agreement ("Agreement") is entered into by the undersigned ("you" or "your") in favor of Mobile Coffee Company, LLC, a Delaware limited liability company, and its successors and assigns ("us," "we," or "our"), upon the terms and conditions set forth in this Agreement.

**1. Definitions.** For purposes of this Agreement, the following terms have the meanings given to them below:

*"Competitive Business"* means any business that: (i) operates a food truck, beverage truck or primarily serves food and/or beverages from a vehicle, kiosk or other moveable property; (ii) derives at least 5% or more of its gross sales from the offering of coffee, tea or similar products; (iii) sells or offers to sell products the same as or similar to the type of products sold by you in and/or from the Franchisee Territory (including, but not limited to, the products we authorize); or (ii) the Franchised Business as the concept evolves over time; (iv) provides or offers to provide services the same as or similar to the type of services sold by you in and/or from the Franchisee Territory (including, but not limited to,; or (v) any business that grants franchises or licenses to others or operates the services we authorize), but type of businesses specified in subparagraphs (i) through (iv) above, but excludes a Travelin' Tom's Franchised Business operating pursuant to under a franchise agreement with us or our affiliates.

*"Copyrights"* means all works and materials for which we or our affiliate have secured common law or registered copyright protection and that we allow franchisees to use, sell, or display in connection with the marketing and/or operation of a Travelin' Tom's Business or the solicitation or offer of a Travelin' Tom's Coffee franchise, whether now in existence or created in the future.

*"Franchisee"* means the Travelin' Tom's Coffee franchisee for which you are a manager or officer.

*"Franchisee Territory"* means the territory granted to you pursuant to a franchise agreement with us.

*"Intellectual Property"* means, collectively or individually, our Marks, Copyrights, Know-how, and System.

*"Know-how"* means all of our trade secrets and other proprietary information relating to the development, construction, marketing, and/or operation of a Travelin' Tom's Business, including, but not limited to, methods, techniques, specifications, proprietary practices and procedures, policies, marketing strategies, and information comprising the System and the Manual.

*"Manual"* means our confidential operations manual for the operation of a Travelin' Tom's Business, which may be periodically modified by us.

*"Marks"* means the logotypes, service marks, and trademarks now or hereafter involved in the operation of a Travelin' Tom's Business, including "Travelin' Tom's Coffee," and any other trademarks, service marks, or trade names that we designate for use by a Travelin' Tom's Business. The term "Marks" also includes any distinctive trade dress used to identify a Travelin' Tom's Business, whether now in existence or hereafter created.

*"Prohibited Activities"* means any or all of the following: (i) owning, operating, or having any other interest (as an owner, partner, director, officer, employee, manager, consultant, shareholder, creditor, representative, agent, or in any similar capacity) in a Competitive Business (other than owning an interest of five percent (5%) or less in a publicly-traded company that is a Competitive Business); (ii) diverting or

attempting to divert any business from us (or one of our affiliates or franchisees); and/or (iii) inducing or attempting to induce any customer of ours (or of one of our affiliates or franchisees) to transfer their business to you or to any other person that is not then a franchisee of ours.

*“Restricted Period”* means the two (2)-year period after you cease to be a manager or officer of Franchisee’s Travelin’ Tom’s Business; provided, however, that if a court of competent jurisdiction determines that this period of time is too long to be enforceable, then the “Restricted Period” means the nine (9) month period after you cease to be a manager or officer of Franchisee’s Travelin’ Tom’s Business.

*“Restricted Territory”* means the geographic area within: (i) a 20-mile radius from Franchisee’s Travelin’ Tom’s Business (and including the premises of the approved location of Franchisee); and (ii) a 20-mile radius from all other Travelin’ Tom’s Businesses that are operating or under development as of the beginning of the Restricted Period; provided, however, that if a court of competent jurisdiction determines that the foregoing Restricted Territory is too broad to be enforceable, then the “Restricted Territory” means the geographic area within a 10-mile radius from Franchisee’s Travelin’ Tom’s Business (and including the premises of the approved location of Franchisee).

*“System”* means our system for the establishment, development, operation, and management of a Travelin’ Tom’s Business, including Know-how, proprietary programs and products, Manual, and operating system.

**2. Background.** You are a manager or officer of Franchisee. As a result of this relationship, you may gain knowledge of our System. You understand that protecting the Intellectual Property and our System are vital to our success and that of our franchisees and that you could seriously jeopardize our entire System if you were to unfairly compete with us. In order to avoid such damage, you agree to comply with the terms of this Agreement.

**3. Know-How and Intellectual Property.** You agree: (i) you will not use the Know-how in any business or capacity other than the Travelin’ Tom’s Business operated by Franchisee; (ii) you will maintain the confidentiality of the Know-how at all times; (iii) you will not make unauthorized copies of documents containing any Know-how; (iv) you will take such reasonable steps as we may ask of you from time to time to prevent unauthorized use or disclosure of the Know-how; and (v) you will stop using the Know-how immediately if you are no longer a manager or officer of Franchisee’s Travelin’ Tom’s Business. You further agree that you will not use all or part of the Intellectual Property or all or part of the System for any purpose other than the performance of your duties for Franchisee and within the scope of your employment or other engagement with Franchisee. These restrictions on Know-how, Intellectual Property and the System shall not apply to any information which is information publicly known or becomes lawfully known in the public domain other than through a breach of this Agreement or is required or compelled by law to be disclosed, provided that you will give reasonable notice to us to allow us to seek protective or other court orders.

**4. Unfair Competition During Relationship.** You agree not to unfairly compete with us at any time while you are a manager or officer of Franchisee’s Travelin’ Tom’s Business by engaging in any Prohibited Activities.

**5. Unfair Competition After Relationship.** You agree not to unfairly compete with us during the Restricted Period by engaging in any Prohibited Activities; provided, however, that the Prohibited Activity relating to having an interest in a Competitive Business will only apply with respect to a Competitive Business that is located within or provides competitive goods or services to customers who are located within the Restricted Territory. If you engage in any Prohibited Activities during the Restricted Period, then you agree that your Restricted Period will be extended by the period of time during which you were engaging in the Prohibited Activity.

**6. Immediate Family Members.** You acknowledge that you could circumvent the purpose of this Agreement by disclosing Know-how to an immediate family member (i.e., spouse, parent, sibling, child, grandparent or grandchild). You also acknowledge that it would be difficult for us to prove whether you disclosed the Know-how to family members. Therefore, you agree that you will be presumed to have violated the terms of this Agreement if any member of your immediate family: (i) engages in any Prohibited Activities during any period of time during which you are prohibited from engaging in the Prohibited Activities; or (ii) uses or discloses the Know-how. However, you may rebut this presumption by furnishing evidence conclusively showing that you did not disclose the Know-how to the family member.

**7. Covenants Reasonable.** You acknowledge and agree that: (i) the terms of this Agreement are reasonable both in time and in scope of geographic area; and (ii) you have sufficient resources and business experience and opportunities to earn an adequate living while complying with the terms of this Agreement. **YOU HEREBY WAIVE ANY RIGHT TO CHALLENGE THE TERMS OF THIS AGREEMENT AS BEING OVERLY BROAD, UNREASONABLE, OR OTHERWISE UNENFORCEABLE.**

**8. Breach.** You agree that failure to comply with the terms of this Agreement will cause substantial and irreparable damage to us and/or other Travelin' Tom's Coffee franchisees for which there is no adequate remedy at law. Therefore, you agree that any violation of the terms of this Agreement will entitle us to injunctive relief. You agree that we may apply for such injunctive relief without bond, but upon due notice, in addition to such further and other relief as may be available at equity or law, and the sole remedy of yours in the event of the entry of such injunction will be the dissolution of such injunction, if warranted, upon hearing duly held (all claims for damages by reason of the wrongful issuance of any such injunction being expressly waived hereby). If a court requires the filing of a bond notwithstanding the preceding sentence, the parties agree that the amount of the bond shall not exceed \$1,000. None of the remedies available to us under this Agreement are exclusive of any other, but may be combined with others under this Agreement, or at law or in equity, including injunctive relief, specific performance, and recovery of monetary damages. Any claim, defense, or cause of action that you may have against us, our owners or our affiliates, or against Franchisee, regardless of cause or origin, cannot be used as a defense against our enforcement of this Agreement.

**9. Miscellaneous.**

a. If we pursue legal remedies against you because you have breached this Agreement and prevail against you, you agree to pay our reasonable attorneys' fees and costs in doing so.

b. This Agreement will be governed by, construed, and enforced under the laws of Kentucky, and the courts in that state shall have jurisdiction over any legal proceedings arising out of this Agreement.

c. Each section of this Agreement, including each subsection and portion thereof, is severable. If any section, subsection, or portion of this Agreement is unenforceable, it shall not affect the enforceability of any other section, subsection, or portion; and each party to this Agreement agrees that the court may impose such limitations on the terms of this Agreement as it deems in its discretion necessary to make such terms reasonable in scope, duration, and geographic area.

d. You and we both believe that the covenants in this Agreement are reasonable in terms of scope, duration, and geographic area. However, we may at any time unilaterally modify the terms of this Agreement upon written notice to you by limiting the scope of the Prohibited Activities, narrowing the definition of a Competitive Business, shortening the duration of the Restricted Period, reducing the

geographic scope of the Restricted Territory, and/or reducing the scope of any other covenant imposed upon you under this Agreement to ensure that the terms and covenants in this Agreement are enforceable under applicable law.

*(Signatures on following pages)*

EXECUTED on the date stated below.

Date \_\_\_\_\_ Signature \_\_\_\_\_

\_\_\_\_\_  
Typed or Printed Name

Date \_\_\_\_\_ Signature \_\_\_\_\_

\_\_\_\_\_  
Typed or Printed Name

Date \_\_\_\_\_ Signature \_\_\_\_\_

\_\_\_\_\_  
Typed or Printed Name

Rev. 120619

## EXHIBIT HI-3

### TRAVELIN' TOM'S COFFEE FRANCHISE

#### SAMPLE CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (“Agreement”) is entered into by the undersigned (“you”) in favor of Mobile Coffee Company, LLC, a Delaware limited liability company, and its successors and assigns (“us”), upon the terms and conditions set forth in this Agreement.

**1. Definitions.** For purposes of this Agreement, the following terms have the meanings given to them below:

“*Copyrights*” means all works and materials for which we or our affiliate(s) have secured common law or registered copyright protection and that we allow Travelin’ Tom’s Coffee franchisees to use, sell, or display in connection with the marketing and/or operation of a Travelin’ Tom’s Business, whether now in existence or created in the future.

“*Franchisee*” means the Travelin’ Tom’s Coffee franchisee for which you are an employee, independent contractor, agent, representative, or supplier.

“*Intellectual Property*” means, collectively or individually, our Marks, Copyrights, Know-how, Manual, and System.

“*Know-how*” means all of our trade secrets and other proprietary information relating to the development, construction, marketing, and/or operation of a Travelin’ Tom’s Business, including, but not limited to, methods, techniques, specifications, proprietary practices and procedures, policies, marketing strategies, and information comprising the System and the Manual.

“*Travelin’ Tom’s Business*” means a business that provides coffees, teas, and related products to the general public in a mobile environment and other related products and services using our Intellectual Property.

“*Manual*” means our confidential operations manual for the operation of a Travelin’ Tom’s Business.

“*Marks*” means the logotypes, service marks, and trademarks now or hereafter involved in the operation of a Travelin’ Tom’s Business, including “Travelin’ Tom’s Coffee” and any other trademarks, service marks, or trade names that we designate for use by a Travelin’ Tom’s Business. The term “Marks” also includes any distinctive trade dress used to identify a Travelin’ Tom’s Business, whether now in existence or hereafter created.

“*System*” means our system for the establishment, development, operation, and management of a Travelin’ Tom’s Business, including Know-how, proprietary programs and products, confidential operations manuals, and operating system.

**2. Background.** You are an employee, independent contractor, agent, representative, or supplier of Franchisee. Because of this relationship, you may gain knowledge of our Intellectual Property. You understand that protecting the Intellectual Property is vital to our success and that of our franchisees, and that you could seriously jeopardize our entire Franchise System if you were to use such Intellectual Property in any way other than as described in this Agreement. In order to avoid such damage, you agree to comply with this Agreement.

**3. Know-How and Intellectual Property: Nondisclosure and Ownership.** You agree: (i) you will not use the Intellectual Property in any business or capacity other than for the benefit of the Travelin' Tom's Business operated by Franchisee or in any way detrimental to us or to the Franchisee; (ii) you will maintain the confidentiality of the Intellectual Property at all times; (iii) you will not make unauthorized copies of documents containing any Intellectual Property; (iv) you will take such reasonable steps as we may ask of you from time to time to prevent unauthorized use or disclosure of the Intellectual Property; and (v) you will stop using the Intellectual Property immediately if you are no longer an employee, independent contractor, agent, representative, or supplier of Franchisee. You further agree that you will not use the Intellectual Property for any purpose other than the performing your duties for Franchisee and within the scope of your employment or other engagement with ~~Franchisee~~Franchisee.

The Intellectual Property is and shall continue to be the sole property of Mobile Coffee Company, LLC. You hereby assign and agree to assign to us any rights you may have or may acquire in such Intellectual Property. Upon the termination of your employment or engagement with Franchisee, or at any time upon our or Franchisee's request, you will deliver to us or to Franchisee all documents and data of any nature pertaining to the Intellectual Property, and you will not take with you any documents or data or copies containing or pertaining to any Intellectual Property.

**4. Immediate Family Members.** You acknowledge you could circumvent the purpose of this Agreement by disclosing Intellectual Property to an immediate family member (i.e., spouse, parent, sibling, child, or grandchild). You also acknowledge that it would be difficult for us to prove whether you disclosed the Intellectual Property to family members. Therefore, you agree you will be presumed to have violated the terms of this Agreement if any member of your immediate family uses or discloses the Intellectual Property. However, you may rebut this presumption by furnishing evidence conclusively showing you did not disclose the Intellectual Property to the family member.

**5. Covenants Reasonable.** You acknowledge and agree that: (i) the terms of this Agreement are reasonable both in time and in scope of geographic area; and (ii) you have sufficient resources and business experience and opportunities to earn an adequate living while complying with the terms of this Agreement. **YOU HEREBY WAIVE ANY RIGHT TO CHALLENGE THE TERMS OF THIS AGREEMENT AS BEING OVERLY BROAD, UNREASONABLE, OR OTHERWISE UNENFORCEABLE.**

**6. Breach.** You agree that failure to comply with this Agreement will cause substantial and irreparable damage to us and/or other Travelin' Tom's Coffee franchisees for which there is no adequate remedy at law. Therefore, you agree that any violation of this Agreement will entitle us to injunctive relief. You agree that we may apply for such injunctive relief, without bond, but upon due notice, in addition to such further and other relief as may be available at equity or law, and the sole remedy of yours, in the event of the entry of such injunction, will be the dissolution of such injunction, if warranted, upon hearing duly held (all claims for damages by reason of the wrongful issuance of any such injunction being expressly waived hereby). If a court requires the filing of a bond notwithstanding the preceding sentence, the parties agree that the amount of the bond shall not exceed \$1,000. None of the remedies available to us under this Agreement are exclusive of any other, but may be combined with others under this Agreement, or at law or in equity, including injunctive relief, specific performance, and recovery of monetary damages. Any claim, defense, or cause of action you may have against us or against Franchisee, regardless of cause or origin, cannot be used as a defense against our enforcement of this Agreement.

**7. Miscellaneous.**

a. Although this Agreement is entered into in favor of Mobile Coffee Company, LLC, you understand and acknowledge that your employer/employee, independent contractor, agent,

representative, or supplier relationship is with Franchisee and not with us, and for all purposes in connection with such relationship, you will look to Franchisee and not to us.

b. If we pursue legal remedies against you because you have breached this Agreement and prevail against you, you agree to pay our reasonable attorney fees and costs in doing so.

c. This Agreement will be governed by, construed, and enforced under the laws of Kentucky, and the courts in that state shall have jurisdiction over any legal proceedings arising out of this Agreement.

d. Each section of this Agreement, including each subsection and portion, is severable. If any section, subsection, or portion of this Agreement is unenforceable, it shall not affect the enforceability of any other section, subsection, or portion; and each party to this Agreement agrees that the court may impose such limitations on the terms of this Agreement as it deems in its discretion necessary to make such terms enforceable.

EXECUTED on the date stated below.

Date \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

Date \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

Date \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

Rev. 032916



EXHIBIT HI-4

**TRAVELIN' TOM'S COFFEE FRANCHISE**

**SAMPLE APPROVAL OF REQUESTED ASSIGNMENT**

This Approval of Requested Assignment ("**Agreement**") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between Mobile Coffee Company, LLC ("**Franchisor**"), a Delaware limited liability company, \_\_\_\_\_ ("**Former Franchisee**"), the undersigned owners of Former Franchisee ("**Owners**") and \_\_\_\_\_, a [State] [corporation/limited liability company] ("**New Franchisee**").

**RECITALS**

WHEREAS, Franchisor and Former Franchisee entered into that certain franchise agreement dated \_\_\_\_\_, 20\_\_\_\_ ("**Former Franchise Agreement**"), in which Franchisor granted Former Franchisee the right to operate a Travelin' Tom's Coffee franchise located at \_\_\_\_\_ ("**Franchised Business**"); and

WHEREAS, Former Franchisee desires to assign ("**Requested Assignment**") the Franchised Business to New Franchisee, New Franchisee desires to accept the Requested Assignment of the Franchised Business from Former Franchisee, and Franchisor desires to approve the Requested Assignment of the Franchised Business from Former Franchisee to New Franchisee upon the terms and conditions contained in this Agreement, including that New Franchisee sign Franchisor's current form of franchise agreement together with all exhibits and attachments thereto ("**New Franchise Agreement**"), contemporaneously herewith.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements herein contained, the parties hereto hereby covenant, promise, and agree as follows:

1. Payment of Fees. In consideration for the Requested Assignment, Former Franchisee acknowledges and agrees to pay Franchisor the Transfer Fee, as required under the Franchise Agreement ("**Franchisor's Assignment Fee**").

2. Assignment and Assumption. Former Franchisee hereby consents to assign all of its rights and delegate its duties with regard to the Former Franchise Agreement and all exhibits and attachments thereto from Former Franchisee to New Franchisee, subject to the terms and conditions of this Agreement, and conditioned upon New Franchisee's signing the New Franchise Agreement pursuant to Section 5 of this Agreement.

3. Consent to Requested Assignment of Franchised Business. Franchisor hereby consents to the Requested Assignment of the Franchised Business from Former Franchisee to New Franchisee upon receipt of the Franchisor's Assignment Fee from Former Franchisee and the mutual execution of this Agreement by all parties. Franchisor waives its right of first refusal set forth in the Former Franchise Agreement.

4. Termination of Rights to the Franchised Business. The parties acknowledge and agree that effective upon the date of this Agreement, the Former Franchise Agreement shall terminate and all of Former Franchisee's rights to operate the Franchised Business are terminated and that from the date of this



Agreement only New Franchisee shall have the sole right to operate the Franchised Business under the New Franchise Agreement. Former Franchisee and the undersigned Owners agree to comply with all of the covenants in the Former Franchise Agreement that expressly or by implication survive the termination, expiration, or transfer of the Former Franchise Agreement. Unless otherwise precluded by state law, Former Franchisee shall execute Franchisor's current form of General Release Agreement.

5. New Franchise Agreement. New Franchisee shall execute the New Franchise Agreement for the Franchised Business (as amended by the form of Addendum prescribed by Franchisor, if applicable), and any other required contracts for the operation of a Travelin' Tom's Coffee franchise as stated in Franchisor's Franchise Disclosure Document.

6. Former Franchisee's Contact Information. Former Franchisee agrees to keep Franchisor informed of its current address and telephone number at all times during the three-year period following the execution of this Agreement.

7. Acknowledgement by New Franchisee. New Franchisee acknowledges and agrees that the purchase of the rights to the Franchised Business ("**Transaction**") occurred solely between Former Franchisee and New Franchisee. New Franchisee also acknowledges and agrees that Franchisor played no role in the Transaction and that Franchisor's involvement was limited to the approval of Requested Assignment and any required actions regarding New Franchisee's signing of the New Franchise Agreement for the Franchised Business. New Franchisee agrees that any claims, disputes, or issues relating New Franchisee's acquisition of the Franchised Business from Franchisee are between New Franchisee and Former Franchisee, and shall not involve Franchisor.

8. Representation. Former Franchisee warrants and represents that it has not heretofore assigned, conveyed, or disposed of any interest in the Former Franchise Agreement or Franchised Business. New Franchisee hereby represents that it received Franchisor's Franchise Disclosure Document and did not sign the New Franchise Agreement or pay any money to Franchisor or its affiliate for a period of at least 14 calendar days after receipt of the Franchise Disclosure Document.

9. Notices. Any notices given under this Agreement shall be in writing, and if delivered by hand, or transmitted by U.S. certified mail, return receipt requested, postage prepaid, or via telegram or telefax, shall be deemed to have been given on the date so delivered or transmitted, if sent to the recipient at its address or telefax number appearing on the records of the sending party.

10. Further Actions. Former Franchisee and New Franchisee each agree to take such further actions as may be required to effectuate the terms and conditions of this Agreement, including any and all actions that may be required or contemplated by the Former Franchise Agreement.

11. Affiliates. When used in this Agreement, the term "**Affiliates**" has the meaning as given in Rule 144 under the Securities Act of 1933.

12. Miscellaneous. This Agreement may not be changed or modified except in a writing signed by all of the parties hereto. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same document. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

13. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Kentucky.

*(Signatures on following page)*

**IN WITNESS WHEREOF**, the parties have executed this Agreement under seal, with the intent that this be a sealed instrument, as of the day and year first above written.

**FRANCHISOR:**

MOBILE COFFEE COMPANY, LLC

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

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

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

**FORMER FRANCHISEE:**

\_\_\_\_\_

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

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

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

**NEW FRANCHISEE:**

\_\_\_\_\_

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

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

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

Rev. 031821

**EXHIBIT HI-5**

**TRAVELIN' TOM'S COFFEE FRANCHISE**

**ADDITIONAL FRANCHISE RESERVATION AGREEMENT**

This Additional Franchise Reservation Agreement ("**AFR Agreement**") is made between **Mobile Coffee Company, LLC** ("**us**" or "**we**") and \_\_\_\_\_ ("**you**") is made and entered into \_\_\_\_, 20\_\_ ("**Effective Date**").

1. **General Description of Agreement.** This AFR Agreement sets out the terms and the conditions under which we will reserve a Travelin' Tom's Coffee franchise and territory (each, a "**Reserved Business**").

a. In order to establish a Travelin' Tom's Coffee franchise, you will be required to enter into a Franchise Agreement for the Reserved Business, the form of which will be our then-current form Franchise Agreement then being offered to new Travelin' Tom's Coffee franchisees (that form of Franchise Agreement is referred to in AFR Agreement as the "**Franchise Agreement**").

b. You acknowledge and represent to us that you understand that this AFR Agreement is not a Franchise Agreement, and that you have no right to open a Travelin' Tom's Business under this AFR Agreement. You will be permitted to open a Travelin' Tom's Coffee franchise only if: (a) we approve you to do so; (b) you and we sign a Franchise Agreement; and (c) you pay us all applicable initial fees that are due under the Franchise Agreement.

2. **Term.** The term of this AFR Agreement shall commence on the Effective Date and, unless otherwise negotiated, terminated or extended as provided herein, shall continue until the earlier of (i) the Expiration Date (as defined in Section 5), or (ii) the date of execution of the Franchise Agreement for the Reserved Business ("**Term**").

3. **Reserved Territory.** The territory covered under this AFR Agreement is referred to as the "**Reserved Territory**." The specific Reserved Territory is:

Reserved Territory Zip Codes

If you fail to purchase a Travelin' Tom's Coffee franchise for the Reserved Territory during the term, you will not be able to enter into another agreement to reserve the Reserved Territory.

4. **Deadline.** You must sign a Franchise Agreement for your Reserved Business for the Reserved Territory no later than one year from the Effective Date ("**Deadline**").

5. **Right of First Refusal.** If you do not meet the Deadline for any reason, we will allow you a right of first refusal for the Reserved Territory ("**ROFR**") subject to the restrictions contained in this Section. This ROFR will shall expire on the earlier of the execution of a Franchise Agreement for the Reserved Business, or 12 months after the Deadline ("**Expiration Date**"). If, after the Deadline, a qualified prospective franchisee has applied to operate a Travelin' Tom's Business in the Reserved Territory, then

we will provide to you (i) written notification stating the same and (ii) the then-current Franchise Disclosure Document and franchise agreement (“**Franchisor’s Notice**”). You will have twenty days from the receipt of Franchisor’s Notice to sign a Franchise Agreement for the Reserved Territory and pay the applicable fees.

You will forfeit your ROFR upon the occurrence of the earlier of the occurrence of any of the following: (1) you indicate in writing that you do not want to exercise this ROFR; and (2) you decline to exercise your rights under this Section within the twenty day period described above.

6. **Reservation Fee.** At the time of signing this AFR Agreement, you must pay us a nonrefundable “**Reservation Fee**” of ten thousand dollars (\$10,000). The Reservation Fee is paid in consideration of our agreement not to award franchise rights to any portion of the Reserved Territory prior to the Deadline, subject to the terms of this Agreement. This amount is fully earned by us when we sign this AFR Agreement. This Additional Franchise Reservation Deposit will be applied towards the initial franchise fee that you must pay us under Franchise Agreement for the Reserved Business if you proceed with the purchase of the Reserved Business and a brand new BEV. If you do not sign a Franchise Agreement for the Reserved Business for any reason, we will keep the Reservation Fee and you will not be entitled to any refund. Additionally, if you purchase a used BEV, you will forfeit the Reservation Fee.

7. **Assignment.** We have the unrestricted right to assign this AFR Agreement without prior notice to you. You may not assign this AFR Agreement.

8. **Defaults.** You will be in default under this AFR Agreement if any other agreement between you (and/or your affiliates) and us (and/or our affiliates) is terminated. If you are in default under this AFR Agreement, we will have the right to terminate AFR Agreement by giving you written notice of termination, which will take effect immediately (unless otherwise required under applicable law).

9. **Entire Agreement.** This Agreement incorporates the full and complete agreement between the parties concerning the subject of this AFR Agreement, and supersedes any and all prior correspondence, conversations, representations, or statements of whatever nature concerning the subject of this AFR Agreement. This AFR Agreement shall be interpreted under the laws of the State of Kentucky without regard to its conflict of laws principles. This AFR Agreement may not be modified without the written consent of both parties

“**Us**”

**Mobile Coffee Company, LLC**

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

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

Its: \_\_\_\_\_

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

“**You**” (Your Franchise Entity Name)

\_\_\_\_\_

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

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

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

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



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**EXHIBIT HI-6**

**TRAVELIN' TOM'S COFFEE FRANCHISE**

**PROMISSORY NOTE - EAGLE FINANCIAL SERVICES, INC.**

EAGLE FINANCIAL SERVICES, INC.

CONSENT AND NOTICE REGARDING ELECTRONIC COMMUNICATIONS

1. **Electronic Signature Agreement.** By selecting the "I Accept" button, you are signing this Agreement electronically. You agree your electronic signature is the legal equivalent of your manual signature on this Agreement. By selecting "I Accept" you consent to be legally bound by this Agreement's terms and conditions. You further agree that your use of a key pad, mouse or other device to select an item, button, icon or similar act/action, or to otherwise provide, or in accessing or making any transaction regarding any agreement, acknowledgment, consent terms, disclosures or conditions constitutes your signature (hereafter referred to as "E-Signature"), acceptance and agreement as if actually signed by you in writing. You also agree that no certification authority or other third party verification is necessary to validate your E-Signature and that the lack of such certification or third party verification will not in any way affect the enforceability of your E-Signature or any resulting contract between you and Eagle Financial Services, Inc. You further agree that each use of your E-Signature in obtaining Eagle Financial Services, Inc.'s online service(s) constitutes your agreement to be bound to the terms and conditions thereof.

2. **Consent to Electronic Delivery.** You specifically agree to receive and/or obtain any and all Eagle Financial Services, Inc. related "Electronic Communications" as defined below. The term "Electronic Communications" includes, but is not limited to, any and all current and future notices and/or disclosures that various federal and/or state laws or regulations require that we provide to you, as well as such other documents, statements, data, records and any other communications including copies of these loan documents. You acknowledge that, for your records, you are able to retain Electronic Communications by printing and/or downloading and saving this Agreement and any other agreements and Electronic Communications, documents, or records that you agree to using your E-Signature. You accept Electronic Communications as reasonable and proper notice, for the purpose of any and all laws, rules, and regulations, such as the same not otherwise contradicted and agree that such electronic form fully satisfies any requirement that such communications be provided to you in writing or in a form that you may keep.

3. **Paper version of Electronic Communications.** You may request a paper version of an Electronic Communication by contacting Eagle Financial Services, Inc. 7791 Dixie Hwy, Florence KY 41043 / 859-525-3870.

4. **Revocation of electronic delivery.** You have the right to withdraw your consent to receive/obtain communications at any time. You acknowledge that Eagle Financial Services, Inc. reserves the right to restrict or terminate your access to electronic access if you withdraw your consent to receive Electronic Communications. If you wish to withdraw your consent, contact us at Eagle Financial Services, Inc. 7791 Dixie Hwy, Florence KY 41043 / 859-525-3870.

5. **Controlling Agreement.** This Agreement supplements and modifies other agreements that you may have with Eagle Financial Services, Inc. To the extent that this Agreement and another agreement contain conflicting provisions, the provisions in this agreement will control with the exception of provisions in another agreement for an electronic service which provisions specify the necessary hardware, software and operating system, in which such other provision controls. All other obligations of the parties remain subject to the terms and conditions of any other agreement. To obtain electronic services and communications, indicate your consent to the terms and conditions of this Agreement by clicking on the "I Accept" button. It is recommended that you print a copy of this Agreement for future reference.

6. **Location of Execution.** This Electronic Signature Agreement and the related contract are deemed executed in the Commonwealth of Kentucky.

"I Accept"

Date

OPTIONAL VOID



## NOTE AND SECURITY AGREEMENT

<b>Lender Name:</b> Eagle Financial Services, Inc <b>Lender Address:</b> 7791 Dixie Highway Florence, KY 41042 <b>Lender Phone:</b> 859-525-3070
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In this Note, the words "you", "yours" and "your" mean each and all of those signed to it as a Borrower. The words "we", "us" and "our" mean Payee/Lender. We have written this Note & Security Agreement ("Loan") in plain language because we want you to understand its terms. Please read your copy of this Loan carefully and feel free to ask us any questions you may have.

THE TERMS OF THIS LOAN SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. TERMS OR ORAL PROMISES WHICH ARE NOT CONTAINED IN THIS WRITTEN LOAN MAY NOT BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS LOAN ONLY BY ANOTHER WRITTEN AGREEMENT BETWEEN YOU AND US. YOU AGREE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS LOAN. THIS LOAN IS NOT CANCELABLE. YOU AGREE THAT THE PROCEEDS OF THE LOAN WILL BE USED FOR BUSINESS PURPOSES ONLY AND NOT FOR PERSONAL FAMILY OR HOUSEHOLD PURPOSES.

YOU CERTIFY THAT ALL THE INFORMATION GIVEN IN THIS LOAN AND YOUR APPLICATION WAS CORRECT AND COMPLETE WHEN THIS LOAN WAS SIGNED. THIS LOAN IS NOT BINDING UPON US OR EFFECTIVE UNLESS AND UNTIL WE EXECUTE THIS LOAN. BY SIGNING THIS AGREEMENT BELOW, YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS CONTAINED HEREIN.

Date of Note:		Loan & Security Agreement #	
All Borrower(s):		Address(es):	
1) _____		1) _____	
2) _____		2) _____	
Borrower with Entity Tax ID#		Entity Fed Tax ID#:	
1) _____		1) _____	
Phone Number:	Cell Number:		
Billing Address:		E-Mail Address:	
_____		_____	
_____		_____	

Equipment Description:

Year	Manufacturer, Model and Description	VIN/Serial Number

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Equipment Location Address: \_\_\_\_\_

**Transaction Terms/ Payment Schedule:**

Principal Amount:	Interest Rate:	Term (in months):	Payment Amount:	Payable Monthly with First Payment Due:

**Deferments:**

**If Borrower is contractually current on all obligations hereunder,** Lender will offer the ability to Defer payments based upon and subject to the following:

- A Deferment payment is a \$100 payment made at the time of a regularly scheduled payment for the normal Payment Amount.
- Prior to making a Deferent payment, Borrower must contact Lender by phone to confirm the availability of each proposed Deferment.
- In most instances a Deferment payment will be insufficient to amortize interest and negative amortization will occur. This means that interest will build on the account and remain due.

- 
- Upon an event of Default as referenced below, no Deferment shall be allowed.

This Loan is eligible for Deferments based on the following schedule:

- For the 12 months after the Date of Note you may Defer up to four (4) single monthly payments.
- For the 13 – 24 months after the Date of Note you may Defer up to two (2) single monthly payments.
- No more than four (4) Deferments may be used consecutively.
- Deferments are not cumulative, may not be banked, and may only be used in the period(s) specified above.
- Deferments, whether exercised or not, will not be available after the 24<sup>th</sup> month after the Date of Note.

**ADDITIONAL TERMS, CONDITIONS, AND AGREEMENT**

1. LOAN. For value received, the Borrower, if more than one, jointly and severally, hereby unconditionally promises to pay to the order of Lender the amounts described above and herein until paid in full. In the event we become aware of adverse credit information about you and/or the Guarantor(s) after you signed this Loan and prior to our acceptance of this Loan, we may at our sole discretion, cancel this loan. ONCE WE ACCEPT THIS LOAN, YOU MAY NOT CANCEL IT DURING THE FULL LOAN TERM. You

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- agree to be bound by all the terms of this loan from the date you execute this loan ("Effective Date") until you have paid the loan in full.
2. **DELIVERY, ACCEPTANCE OF EQUIPMENT AND COMMENCEMENT OF THE LOAN.** Borrower hereby certifies to Lender that the Equipment has been duly ordered, an invoice for the Equipment has been issued and the Equipment will be delivered to the location where it will be used. Borrower acknowledges that signature of this document confirms that Equipment will be properly installed and in good working order and constitutes an unconditional acceptance of the Equipment upon delivery and hereby authorizes the commencement of the loan ("Commencement Date").
3. **PAYMENTS.** You agree to pay us the loan payments when each payment is due. If we designate the loan payment to begin later than the Commencement Date, you will pay interim interest on the Principal Amount from the commencement date until the first loan payment due date. Interim interest shall be equal to the pro rata portion of the daily equivalent of the Loan interest rate. Payment is due whether or not you receive an invoice from us. Restrictive endorsements on checks you send to us will not reduce your obligations to us. For any payment which is not received by its due date, you agree to pay a late charge equal to the greater of 5% of the amount due or \$25.00 (not to exceed the maximum amount permitted by law).
4. **UNCONDITIONAL OBLIGATION.** YOU AGREE THAT YOU ARE UNCONDITIONALLY OBLIGATED TO PAY ALL PAYMENTS AND ANY OTHER AMOUNTS DUE UNDER THIS LOAN FOR THE FULL LOAN TERM EVEN IF THE EQUIPMENT IS DAMAGED OR DESTROYED, IF IT IS DEFECTIVE OR YOU HAVE TEMPORARY OR PERMANENT LOSS OF ITS USE. YOU ARE NOT ENTITLED TO REDUCE OR SET OFF AGAINST PAYMENT OR OTHER AMOUNTS DUE UNDER THIS LOAN FOR ANY REASON WHATSOEVER.
5. **DISCLAIMER OF WARRANTIES.** THE EQUIPMENT IS BEING USED BY YOU IN AS-IS CONDITION. NO INDIVIDUAL IS AUTHORIZED TO CHANGE ANY PROVISION OF THIS LOAN. YOU AGREE THAT WE HAVE NOT MANUFACTURED THE EQUIPMENT OR LICENSED THE EQUIPMENT AND THAT YOU HAVE SELECTED THE EQUIPMENT BASED UPON YOUR OWN JUDGMENT. YOU HAVE NOT RELIED ON ANY STATEMENTS WE OR OUR EMPLOYEES HAVE MADE. WE HAVE NOT MADE AND DO NOT MAKE ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE EQUIPMENT MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, DESIGN, CONDITION, DURABILITY, OPERATION, QUALITY OF MATERIALS OR WORKMANSHIP OR COMPLIANCE WITH SPECIFICATIONS OR APPLICABLE LAW. You are aware of the name of the equipment manufacturer. You agree to contact the manufacturer for a description of your warranty rights, if any. You agree to settle any dispute you may have regarding performance of the equipment directly with the manufacturer of the equipment.
6. **SECURITY INTEREST.** To secure all of your obligations to us under this loan you hereby grant us a security interest in (a) the Equipment to the extent of your interests in the Equipment, (b) anything attached or added to the Equipment at any time, (c) any money or property from the sale of the Equipment, and (d) any money from an insurance claim if the Equipment is lost or damaged. You agree that the security interest will not be affected if this loan is changed in any way. As required, you agree, at your own expense, to register the Equipment in your address as both above and to title the Equipment as you, showing us as secured party or lien holder. You hereby irrevocably authorize us at any time and from time to time to file in any Uniform Commercial Code jurisdiction any financing statements prepared and filed on your behalf by us (or our agent) with the same force and effect as if you had signed such financing statements. If we request, you agree to sign financing statements in order for us to publicly record our security interest. This Loan or a copy of this Loan shall be sufficient as a financing statement and may be filed as such. This Loan may be executed in counterparts, and electronic signatures shall suffice as originals.
7. **USE, MAINTENANCE, AND REPAIR.** You will give us reasonable access to the Equipment location so that, upon reasonable request, we can check the equipment's existence, condition and proper maintenance. You will use the Equipment in the manner in which it was intended, as required by all

(CUSTOMER USE ONLY)



- applicable manuals and instructions and keep it eligible for any manufacturer's certification and/or standard, full-service maintenance contract. At your own cost and expense, you will keep the Equipment in good repair, condition and working order, ordinary wear and tear excepted. All replacement parts and repairs will become our property. You will not make any permanent alterations to the Equipment.
8. **TAXES.** You agree to pay when due, all taxes, fines and penalties relating to this Loan or the Equipment that are now or in the future assessed or levied by any state, local or other government authority. We do not have to remit any taxes, fines or penalties. If required, you will pay estimated property taxes as required and all other taxes and charges, relating to the ownership, purchase, possession or use of the Equipment.
9. **INDEMNITY.** We are not responsible for any injuries, damages, penalties, claims or losses, including legal expenses, incurred by you or any other person caused by the transportation, installation, selection, purchase, loan, ownership, possession, modification, maintenance, condition, operations, use, return or disposition of the Equipment. You agree to reimburse us for and defend us against any claims for such losses, damages, penalties, claims, injuries, or expenses. This indemnity continues even after the Loan has expired for any omissions which occurred during the Loan.
10. **IDENTIFICATION.** You authorize us to insert or correct missing information on this Loan, including your official name, serial numbers, and any other information describing the Equipment. We will send you copies of the changes. You will attach to the Equipment any name plates or stickers we provide you.
11. **LOSS OR DAMAGE.** You are responsible for any loss of the Equipment from any cause at all, whether or not insured. If any item of the Equipment is lost, stolen or damaged, you will promptly notify us of such an event. Then, at our option, you will repair the Equipment so that it is in good condition and working order. If you have satisfied your obligations under this Section and you are not in default, we will forward to you any insurance proceeds which we receive for such lost, damaged, or destroyed item. If you are in default, we will apply any insurance proceeds we receive to reduce your obligations under this Loan.
12. **INSURANCE.** During the term of a Loan, you will keep the Equipment insured, at your sole cost and expense, against all risks of a loss or damage in an amount not less than the replacement cost of the Equipment showing us as loss payee as our interest may appear. You will also obtain and maintain for the term of a Loan, comprehensive public liability insurance in the amount of \$2,000,000 showing us as additional insured. You will pay all premiums for such insurance. If you do not provide such insurance, you agree that we have the right, but not the obligation, to obtain such insurance and charge you for all costs. You irrevocably appoint us as your attorney-in-fact to make claims for, receive payment of, and execute and endorse all documents, checks or drafts in payment for loss or damage under said insurance policies.
13. **DEFAULT.** You will be in default under this Loan if any of the following happens: (a) you do not receive any payment or other payment due hereunder 10 days after its due date (no prior notice from us to you or such default is necessary), or (b) you or any of your guarantors become insolvent, are liquidated, dissolve, merge, transfer substantially all stock or assets, stop doing business, or assign rights or property for the benefit of creditors, or (c) a petition is filed by or against you or any of your guarantors under any bankruptcy or insolvency law which remains undismissed or undischarged for sixty (60) days, or (d) (for individuals) you or any of your guarantors die, or have a guardian appointed, or (e) any representation you may have made in this Loan shall prove to be false or misleading in any material aspect, (f) any of your guarantors breach their guaranty by not correcting the default within 10 days after we send you written notice of the default, (g) in our judgment any adverse change occurs in your ability to repay this Loan pursuant to its terms.
14. **REMEDIES.** Upon the occurrence of default, we may, in our sole discretion, do any or all of the following: (a) provide written notice to you of default, (b) be liquidated damages for loss of a bargain and not as a penalty, declare due and payable, (c) any and all amounts which may be then due and payable by you to us under this Loan Agreement. We have the right to require you to make the Equipment available to us for repossession during reasonable business hours or we may repossess the Equipment, so long as we do

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not breach the power in doing so, or we may use legal process in compliance with applicable law pursuant to court order to have the Equipment repossessed. You will not make any claims against us or the Equipment for trespass, damage or any other reason. If we take possession of the Equipment, we may: (a) sell or lease the Equipment at public or private sale or lease, and/or (b) exercise such other rights as may be allowed by applicable law. Although you agree that we have no obligation to sell the Equipment, if we do sell the Equipment, we will apply any proceeds we receive to reduce your obligations under this Section and any surplus remaining shall be returned to you. You agree (a) that we only need to give you 10 days advance notice of any sale and no notice of advertising, (b) to pay all of the costs we incur to enforce our rights against you including attorney's fees, and (c) that we will retain all of our rights against you even if we do not choose to enforce them at the time of your default. In addition to any other remedy permitted by law, we may at any time, without notice, at our option, proceed to enforce and protect our rights by an action in law or in equity or by any other appropriate proceedings.

15. **REPLENISHING EQUIPMENT.** If (a) a default occurs, you will immediately return the Equipment, manuals and accessories to any location(s) and aboard any carrier(s) with prepaid freight and insurance as we may designate in the continental United States. The Equipment must be maintained in accordance with Section 7, and in "Average Saleable Condition" which means that all of the Equipment is immediately available for use by a third party (buyer, user or borrower, other than yourself), without the need for any repair or refurbishment. You will pay us for any missing or defective parts or accessories.

16. **YOUR REPRESENTATIONS.** You state for our benefit that as of the date of this Loan (a) you have the lawful power and authority to enter into this Loan, (b) the individuals signing this Loan have been duly authorized to do so on your behalf, (c) by entering into this Loan you will not violate any law or other agreement to which you are a party, and you are not aware of anything that will have a material negative effect on your ability to satisfy your obligation under this Loan, and (e) all financial information you have provided us is true and accurate and provides a good representation of your financial condition.

17. **YOUR PROMISES.** In addition to the other provisions of this Loan, you agree that during the term of this Loan (a) you will promptly notify us in writing if you move your principal place of business, if you change the name of your business, or if there is a change in your ownership, (b) you will provide to us such financial information as we may reasonably request from time-to-time, and (c) you will take any action we reasonably request to protect our rights to the equipment and to meet your obligations under this Loan.

18. **ASSIGNMENT. YOU WILL NOT SELL, TRANSFER, ASSIGN, PLEDGE, LEASE OR PART WITH POSSESSION OF THE EQUIPMENT, OR FILE OR PERMIT A LIEN TO BE FILED AGAINST THE EQUIPMENT.** We may, without notifying you, sell, assign, or transfer this Loan and our interests in the Equipment. You agree that if we do so, the new owner (and any subsequent owners) will have the same rights and benefits that we now have, but will not have to perform any of our obligations. You agree that the rights of the new owner will not be subject to any claims, defenses, or set-off that you may have against us. Any such assignment, sale, or transfer of this Loan or Equipment will not relieve us of any obligations we may have to you under this Loan. If you relieve us of any obligations we may have to you under this Loan, if you are given notice of a new owner of this Loan, you agree to respond to any requests about this Loan and, if directed by us, to pay the new owner all payments and other amounts due under this Loan.

19. **COLLECTION. EXPENSES. OVERDUE PAYMENTS.** You agree that we can, but do not have to, take on your behalf any action which you fail to take as required by this Loan, and our expenses will be in addition to of the payment which you owe us. To the extent allowed by law, any late payment or non-payment of any past due amount will accrue interest at the Contract rate from the day this amount is paid in full. You agree to pay the costs of collection and/or litigation (including attorney fees, plus interest at the Contract rate until paid in full).

20. **CHECK CHARGES.** You promise to pay a check collection charge of \$20 plus any amount charged to us by any other financial institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument returned or dishonored for any reason.

(00169511) (4/18/23)



21. **MISCELLANEOUS.** This Loan contains our entire agreement and supersedes any conflicting provision of any equipment purchase order or any other agreement. **TIME IS OF THE ESSENCE IN THIS LOAN.** If a court finds any provision of this Loan to be unenforceable, the remaining terms of this Loan shall remain in effect. You authorize us (or our agent) to (a) obtain credit reports, (b) make such other credit inquiries as we may deem necessary, and (c) furnish payment history information to payment reporting agencies. To the extent permitted by law, we may charge a fee to cover our documentation and investigation costs.
22. **NOTICE.** All of your written notices to us must be certified mail or recognized overnight delivery service, postage prepaid, to us at our address stated in this Loan, or by facsimile transmission to our facsimile telephone number, with and confirmation of receipt. All of our notices to you may be sent first class mail, postage prepaid, to your address stated on this Loan. At any time after this Loan is signed, you or we may change an address or facsimile telephone number by giving notice to the other of the change.
23. **WAIVERS.** WE ASK YOU EACH AGREE TO WAIVE AND TO TAKE ALL REQUIRED STEPS TO WAIVE ALL RIGHTS TO A JURY TRIAL. ANY ACTION YOU TAKE AGAINST US FOR ANY DEFAULT, INCLUDING ALLEGED BREACH OF WARRANTY OR INDEMNITY, MUST BE BRINGED WITHIN ONE (1) YEAR OF THE EVENT WHICH CAUSED IT. WE WILL NOT BE LIABLE FOR SPECIFIC PERFORMANCE OF THIS LOAN FOR ANY LOSSES, DAMAGES, DELAY OR FAILURE TO DELIVER THE EQUIPMENT. No failure of us to exercise any of our rights hereunder shall be deemed a waiver of any such right or of any default, demand, presentment, protest, notice of dishonor, notice of protest, notice of default, and all other ship defenses are hereby waived by you.
24. **COMMERCIAL PROMISSORY NOTE.** You certify that the proceeds of this loan are to be used for business purposes. If this note is a renewal, in whole or in part, of a previous obligation, the agreement on this note by us shall not constitute a payment but rather a continuation of the previous obligation.
25. **JURISDICTION.** All rights and liabilities hereunder shall be governed and limited by and construed in accordance with the laws of the Commonwealth of Kentucky and the parties agree that the Boone County Kentucky Circuit Court is the exclusive Court to adjudicate any controversies related to this note. You specifically agree and do waive any defense based upon forum non conveniens. You also agree that this agreement and any related guarantees or other documents are deemed executed in the Commonwealth of Kentucky, even if executed by electronic means.
26. **CO-MAKER.** If you are signing this note as a co-maker, you understand that you are jointly and severally (equally) responsible with all other borrowers, and we may sue any or all of you. We are not required by law to notify you if the note is paid off. We can also alter the terms or payment of the note and release a lien from any security without notifying you.
27. **EQUIPMENT.** You state and agree that the Equipment purchased has been duly delivered, has been inspected, and is complete, functioning, and in good working order.
28. **COUNTERPARTS.** This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This agreement may be executed electronically. Without limiting the generality of the foregoing, delivery of an executed signature page to this agreement (or any related agreement or instrument) by e-mail attachment, other means of electronic transmission with authorization to attach it to this agreement (or any related agreement or instrument), or any other means of electronic transmission used to obtain an electronic signature shall be deemed to have the same legal effect as delivery of an original signed copy.

**YOU ACKNOWLEDGE RECEIPT OF A COMPLETELY FILLED-IN COPY OF THIS NOTE AND SECURITY AGREEMENT**

**WITNESS OUR HANDS AND SEALS ON THE DATE OF NOTE AS STATED ABOVE:**

BORROWER (NAME):

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BORROWER 1 SIGNATURE \_\_\_\_\_

BORROWER 2 NAME: \_\_\_\_\_

BORROWER 2 SIGNATURE \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

By (PRINT NAME): \_\_\_\_\_

TITLE: \_\_\_\_\_

WITNESS NAME \_\_\_\_\_

WITNESS SIGNATURE \_\_\_\_\_

WITNESS TITLE \_\_\_\_\_

### **ACH AUTHORIZATION FORM**

By signing below, I/WE authorize the above-named Eagle Financial Services, Inc. 7791 Dixie Hwy, Florence KY 41042 (859-525-3070) ("Company") to initiate recurring electronic automated clearing house (ACH) entries from MY/OUR Account indicated below, at the Bank named below, in order to make payments on MY/OUR Company contract and, if necessary, to initiate transactions to correct any erroneous payment debit. MY/OUR payments will begin on the date listed below and will occur on any specified dates thereafter until MY/OUR Company contract is paid in full or I/WE revoke this authorization (as provided below). In certain instances, the payment may be executed on the next business day. If MY/OUR Bank is unable to process any electronic ACH entry and/or if the amount due is more or less than the regularly scheduled amount, I/WE authorize Company to resubmit the ACH entry and/or to submit a paper draft(s) to the Bank for processing and payment, in any amounts necessary, and until such time as the full payment(s) obligation is met. If MY/OUR payment (whether in the form of an electronic ACH or a paper draft) is dishonored or returned unpaid by Bank, I/WE agree that Company may charge a return item fee and/or a late charge (if and to the extent applicable) to the extent allowed by law and/or MY/OUR Company contract. I/WE also acknowledge that Bank may also impose its own additional fees. I/WE acknowledge that the origination of ACH entries to MY/OUR Account must comply with and will be governed by all applicable laws.

This authorization will remain in effect until Company has received written notification from ME/US of termination at the address above. I/WE agree to notify Company in writing of any changes in Account information or termination of this authorization to afford a reasonable opportunity for Company and Bank time to act. This authorization and consent shall apply and be effective as to all future account information I may provide, including any new account information provided by phone. I/WE may call the number provided above to determine whether any transfer has/has not occurred. I/WE acknowledge this form is optional and not a condition for the granting of credit.

BANK NAME: \_\_\_\_\_ BANK ADDRESS: \_\_\_\_\_

NAME 1 ON BANK ACCOUNT: \_\_\_\_\_

NAME 2 ON BANK ACCOUNT: \_\_\_\_\_

TYPE OF ACCOUNT: ☐ PERSONAL CHECKING ☐ BUSINESS CHECKING

BANK ROUTING NUMBER: \_\_\_\_\_ BANK ACCOUNT NUMBER: \_\_\_\_\_

**I/WE ACKNOWLEDGE I/WE HAVE RECEIVED A COPY OF THIS AUTHORIZATION AND AGREE TO THE TERMS STATED. ALL PERSONS NAMED ABOVE MUST SIGN AND DATE BELOW.**

SIGN: \_\_\_\_\_ DATE: \_\_\_\_\_ SIGN: \_\_\_\_\_ DATE: \_\_\_\_\_

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NAME 1 ON ACCOUNT

NAME 2 ON ACCOUNT

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If this box is marked, then under the terms of your Loan, you are required to carry adequate insurance coverage on financed equipment. Your insurance certificate is required prior to us funding your vendor. Homeowners Policies will not cover commercial financing. YOUR LOAN MAY NOT BE FUNDED UNTIL WE RECEIVE THIS INFORMATION.

Please provide a Certificate of Insurance showing the following:

- Above referenced Agreement #
- Name of the Insurance Company and Policy Number
- Effective and Expiration Date of Coverage.
- INSURED PARTY: The Borrower(s) listed above must be named as Insured.
- PHYSICAL DAMAGE INSURANCE: Lender must be named Loss Payee against any loss including fire, theft and any other standard peril normally covered under a commercial policy for an amount not less than the replacement cost of the equipment.
- LENDER AS LOSS PAYEE/ADDITIONAL INSURED
- DESCRIPTION OF EQUIPMENT: A description of equipment covered (including serial numbers) must be listed on or attached to the Certificate of Insurance.

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**EAGLE FINANCIAL SERVICES, INC.**

**CONSENT AND NOTICE REGARDING ELECTRONIC COMMUNICATIONS**

1. Electronic Signature Agreement. By selecting the "I Accept" button, you are signing this Agreement electronically. You agree your electronic signature is the legal equivalent of your manual signature on this Agreement. By selecting "I Accept" you consent to be legally bound by this Agreement's terms and conditions. You further agree that your use of a key pad, mouse or other device to select an item, button, icon or similar act/action, or to otherwise provide, or in accessing or making any transaction regarding any agreement, acknowledgement, consent terms, disclosures or conditions constitutes your signature (hereafter referred to as "E-Signature"), acceptance and agreement as if actually signed by you in writing. You also agree that no certification authority or other third party verification is necessary to validate your E-Signature and that the lack of such certification or third party verification will not in any way affect the enforceability of your E-Signature or any resulting contract between you and Eagle Financial Services, Inc. You further agree that each use of your E-Signature in obtaining Eagle Financial Services, Inc.'s online service(s) constitutes your agreement to be bound by the terms and conditions thereof.

2. Consent to Electronic Delivery. You specifically agree to receive and/or obtain any and all Eagle Financial Services, Inc. related "Electronic Communications" as defined below. The term "Electronic Communications" includes, but is not limited to, any and all current and future notices and/or disclosures that various federal and/or state laws or regulations require that we provide to you, as well as such other documents, statements, data, records and any other communications including copies of these loan documents. You acknowledge that, for your records, you are able to retain Electronic Communications by printing and/or downloading and saving this Agreement and any other agreements and Electronic Communications, documents, or records that you agree to using your E-Signature. You accept Electronic Communications as reasonable and proper notice, for the purpose of any and all laws, rules, and regulations, each to the extent not otherwise contradicted and agree that such electronic form fully satisfies any requirement that such communications be provided to you in writing or in a form that you may keep.

3. Paper version of Electronic Communications. You may request a paper version of an Electronic Communication by contacting Eagle Financial Services, Inc. 7791 Dixie Hwy, Florence KY 41042 / 859-525-3070.

4. Revocation of electronic delivery. You have the right to withdraw your consent to receive/obtain communications at any time. You acknowledge that Eagle Financial Services, Inc. reserves the right to restrict or terminate your access to electronic access if you withdraw your consent to receive Electronic Communications. If you wish to withdraw your consent, contact us at Eagle Financial Services, Inc. 7791 Dixie Hwy, Florence KY 41042 / 859-525-3070.

5. Controlling Agreement. This Agreement supplements and modifies other agreements that you may have with Eagle Financial Services, Inc. To the extent that this Agreement and another agreement contain conflicting provisions, the provisions in this agreement will control (with the exception of provisions in another agreement for an electronic service which provisions specify the necessary hardware, software and operating system, in which such other provision controls). All other obligations of the parties remain subject to the terms and conditions of any other agreement. To obtain electronic services and communications, indicate your consent to the terms and conditions of this Agreement by clicking on the "I Accept" button. It is recommended that you print a copy of this Agreement for future reference.

6. Location of Execution: This Electronic Signature Agreement and the related contract are deemed executed in the Commonwealth of Kentucky.

"I Accept" \_\_\_\_\_

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

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## NOTE AND SECURITY AGREEMENT

Lender Name: Eagle Financial Services, Inc  
Lender Address: 7791 Dixie Highway  
Florence, KY 41042  
Lender Phone: 859-525-3070

In this Note, the words "you", "yours" and "your" mean each and all of those signed to it as a Borrower. The words "we", "us" and "our" mean Payee/Lender. We have written this Note & Security Agreement ("Loan") in plain language because we want you to understand its terms. Please read your copy of this Loan carefully and feel free to ask us any questions you may have.

THE TERMS OF THIS LOAN SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. TERMS OR ORAL PROMISES WHICH ARE NOT CONTAINED IN THIS WRITTEN LOAN MAY NOT BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS LOAN ONLY BY ANOTHER WRITTEN AGREEMENT BETWEEN YOU AND US. YOU AGREE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS LOAN. THIS LOAN IS NOT CANCELABLE. YOU AGREE THAT THE PROCEEDS OF THE LOAN WILL BE USED FOR BUSINESS PURPOSES ONLY AND NOT FOR PERSONAL FAMILY OR HOUSEHOLD PURPOSES.

YOU CERTIFY THAT ALL THE INFORMATION GIVEN IN THIS LOAN AND YOUR APPLICATION WAS CORRECT AND COMPLETE WHEN THIS LOAN WAS SIGNED. THIS LOAN IS NOT BINDING UPON US OR EFFECTIVE UNLESS AND UNTIL WE EXECUTE THIS LOAN. BY SIGNING THIS AGREEMENT BELOW, YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS CONTAINED HEREIN.

Date of Note:		Loan & Security Agreement #	
All Borrower(s):		Address(es):	
1) _____		1) _____	
2) _____		2) _____	
Borrower with Entity Tax ID#		Entity Fed Tax ID#:	
1) _____		1) _____	
Phone Number:	Cell Number:		
Billing Address:		E-Mail Address:	
_____		_____	
_____		_____	

### Equipment Description:

Year	Manufacturer, Model and Description	VIN/Serial Number

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Equipment Location Address: \_\_\_\_\_

**Transaction Terms/ Payment Schedule:**

Principal Amount:	Interest Rate:	Term (in months):	Payment Amount:	Payable Monthly with First Payment Due:

**Deferments:**

**If Borrower is contractually current on all obligations hereunder,** Lender will offer the ability to Defer payments based upon and subject to the following:

- A Deferment payment is a \$100 payment made at the time of a regularly scheduled payment for the normal Payment Amount.
- Prior to making a Deferent payment, Borrower must contact Lender by phone to confirm the availability of each proposed Deferment.
- In most instances a Deferment payment will be insufficient to amortize interest and negative amortization will occur. This means that interest will build on the account and remain due.
- Upon an event of Default as referenced below, no Deferment shall be allowed.

This Loan is eligible for Deferments based on the following schedule:

- For the 12 months after the Date of Note you may Defer up to four (4) single monthly payments.
- For the 13 – 24 months after the Date of Note you may Defer up to two (2) single monthly payments.
- No more than four (4) Deferments may be used consecutively.
- Deferments are not cumulative, may not be banked, and may only be used in the period(s) specified above.
- Deferments, whether exercised or not, will not be available after the 24<sup>th</sup> month after the Date of Note.

**ADDITIONAL TERMS, CONDITIONS, AND AGREEMENT**

1. **LOAN.** For value received, the Borrower, if more than one, jointly and severally, hereby unconditionally promises to pay to the order of Lender the amounts described above and herein until paid in full. In the event we become aware of adverse credit information about you and/or the Guarantor(s) after you signed this Loan and prior to our acceptance of this Loan, we may at our sole discretion, cancel this loan. **ONCE WE ACCEPT THIS LOAN, YOU MAY NOT CANCEL IT DURING THE FULL LOAN TERM.** You

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- agree to be bound by all the terms of this Loan from the date you execute this Loan ("Effective Date") until you have paid the Loan in full.
2. **DELIVERY, ACCEPTANCE OF EQUIPMENT AND COMMENCEMENT OF THE LOAN.** Borrower hereby certifies to Lender that the Equipment has been duly ordered, an invoice for the Equipment has been issued and the Equipment will be delivered to the location where it will be used. Borrower acknowledges that signature of this document confirms that Equipment will be properly installed and in good working order and constitutes an unconditional acceptance of the Equipment upon delivery and hereby authorizes the commencement of the Loan ("Commencement Date").
  3. **PAYMENT.** You agree to pay us the Loan Payments when each payment is due. If we designate the Loan Payment to begin later than the Commencement Date, you will pay interim interest on the Principal Amount from the commencement Date until the first Loan Payment due date. Interim interest shall be equal to the pro rata portion of the daily equivalent of the Loan interest rate. Payment is due whether or not you receive an invoice from us. Restrictive endorsements on checks you send to us will not reduce your obligations to us. For any payment which is not received by its due date, you agree to pay a late charge equal to the greater of 5% of the amount due or \$25.00 (not to exceed the maximum amount permitted by law).
  4. **UNCONDITIONAL OBLIGATION. YOU AGREE THAT YOU ARE UNCONDITIONALLY OBLIGATED TO PAY ALL PAYMENTS AND ANY OTHER AMOUNTS DUE UNDER THIS LOAN FOR THE FULL LOAN TERM EVEN IF THE EQUIPMENT IS DAMAGED OR DESTROYED, IF IT IS DEFECTIVE OR YOU HAVE TEMPORARY OR PERMANENT LOSS OF ITS USE. YOU ARE NOT ENTITLED TO REDUCE OR SET-OFF AGAINST PAYMENT OR OTHER AMOUNTS DUE UNDER THIS LOAN FOR ANY REASON WHATSOEVER.**
  5. **DISCLAIMER OF WARRANTIES.** THE EQUIPMENT IS BEING USED BY YOU IN AS-IS CONDITION. NO INDIVIDUAL IS AUTHORIZED TO CHANGE ANY PROVISION OF THIS LOAN. YOU AGREE THAT WE HAVE NOT MANUFACTURED THE EQUIPMENT OR LICENSED THE EQUIPMENT AND THAT YOU HAVE SELECTED THE EQUIPMENT BASED UPON YOUR OWN JUDGMENT. YOU HAVE NOT RELIED ON ANY STATEMENTS WE OR OUR EMPLOYEES HAVE MADE. WE HAVE NOT MADE AND DO NOT MAKE ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE EQUIPMENT MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, DESIGN, CONDITION, DURABILITY, OPERATION, QUALITY OF MATERIALS OR WORKMANSHIP, OR COMPLIANCE WITH SPECIFICATIONS OR APPLICABLE LAW. You are aware of the name of the Equipment manufacturer. You agree to contact the manufacturer for a description of your warranty rights, if any. You agree to settle any dispute you may have regarding performance of the Equipment directly with the manufacturer of the Equipment.
  6. **SECURITY INTEREST.** To secure all of your obligations to us under this Loan you hereby grant us a security interest in (a) the Equipment to the extent of your interests in the Equipment, (b) anything attached or added to the Equipment at any time, (c) any money or property from the sale of the Equipment, and (d) any money from an insurance claim if the Equipment is lost or damaged. You agree that the security interest will not be affected if this loan is changed in any way. As required, you agree, at your own expense, to register the Equipment to you at your address set forth above and to title the Equipment to you, showing us as secured party or lien holder. You hereby irrevocably authorize us at any time and from time to time to file in any Uniform Commercial Code jurisdiction any financing statements prepared and filed on your behalf by us (or our agent) with the same force and effect as if you had signed such financing statements. If we request, you agree to sign financing statements in order for us to publicly record our security interest. This Loan or a copy of this Loan shall be sufficient as a financing statement and may be filed as such. This Loan may be executed in counterparts, and electronic signatures shall suffice as originals.
  7. **USE, MAINTENANCE, AND REPAIR.** You will give us reasonable access to the Equipment Location so that, upon reasonable request, we can check the Equipment's existence, condition and proper maintenance. You will use the Equipment in the manner in which it was intended, as required by all

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- applicable manuals and instructions and keep it eligible for any manufacturer's certification and/or standard, full-service maintenance contract. At your own cost and expense, you will keep the Equipment in good repair, condition and working order, ordinary wear and tear expected. All replacement parts and repairs will become our property. You will not make any permanent alterations to the Equipment.
8. **TAXES.** You agree to pay when due, all taxes, fines, and penalties relating to this Loan or the Equipment that are now or in the future assessed or levied by any state, local or other government authority. We do not have to contest any taxes, fines or penalties. If required, you will pay estimated property taxes as invoiced and all other taxes and charges, relating to the ownership purchase, possession or use of the Equipment.
9. **INDEMNITY.** We are not responsible for any injuries, damages, penalties, claims or losses, including legal expenses, incurred by you or any other person caused by the transportation, installation, selection, purchase, loan, ownership, possession, modification, maintenance, condition, operations, use, return or disposition of the Equipment. You agree to reimburse us for and defend us against any claims for such losses, damages, penalties, claims, injuries, or expenses. This indemnity continues even after the Loan has expired for acts or omissions which occurred during the Term.
10. **IDENTIFICATION.** You authorize us to insert or correct missing information on this Loan, including your official name, serial numbers, and any other information describing the Equipment. We will send you copies of the changes. You will attach to the Equipment any name plates or stickers we provide you.
11. **LOSS OR DAMAGE.** You are responsible for any loss of the Equipment from any cause at all, whether or not insured. If any item of the Equipment is lost, stolen or damaged, you will promptly notify us of such an event. Then, at our option, you will repair the Equipment so that it is in good condition and working order. If you have satisfied your obligations under this Section and you are not in default, we will forward to you any insurance proceeds which we receive for such lost, damaged, or destroyed item. If you are in default, we will apply any insurance proceeds we receive to reduce your obligations under this Loan.
12. **INSURANCE.** During the term of a Loan, you will keep the Equipment insured, at your sole cost and expense, against all risks of a loss or damage in an amount not less than the replacement cost of the Equipment showing us as loss payee as our interests may appear. You will also obtain and maintain for the term of a Loan, comprehensive public liability insurance in the amount of \$2,000,000 showing us as additional insured. You will pay all premiums for such insurance. If you do not provide such insurance, you agree that we have the right, but not the obligation, to obtain such insurance and charge you for all costs. You irrevocably appoint us as your attorney-in-fact to make claims for, receive payment of, and execute and endorse all documents, checks or drafts in payment for loss or damage under said insurance policies.
13. **DEFAULT.** You will be in default under this Loan if any of the following happens: (a) we do not receive any payment or other payment due hereunder 10 days after its due date (no prior notice from us to you of such default is necessary), or (b) you or any of your guarantors become insolvent, are liquidated, dissolve, merge, transfer substantially all stock or assets, stop doing business, or assign rights or property for the benefit of creditors, or (c) a petition is filed by or against you or any of your guarantors under any bankruptcy or insolvency law which remains undismissed or undischarged for sixty (60) days, or (d) (for individuals) you or any of your guarantors die, or have a guardian appointed, or (e) any representation you may have made in this Loan shall prove to be false or misleading in any material aspect, (f) any of your guarantors breach their guaranty by not correcting the default within 10 days after we send you written notice of the default, (g) in our judgment any adverse change occurs in your ability to repay this Loan pursuant to its terms.
14. **REMEDIES.** Upon the occurrence of default, we may, in our sole discretion, do any or all of the following: (a) provide written notice to you of default, (b) as liquidated damages for loss of a bargain and not as a penalty, declare due and payable; (i) any and all amounts which may be then due and payable by you to us under this Loan Agreement. We have the right to require you to make the Equipment available to us for repossession during reasonable business hours or we may repossess the Equipment, so long as we do

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not breach the peace in doing so, or we may use legal process in compliance with applicable law pursuant to court order to have the Equipment repossessed. You will not make any claims against us or the Equipment for trespass, damage or any other reason. If we take possession of the Equipment, we may (a) sell or lease the Equipment at public or private sale or lease, and/or (b) exercise such other rights as may be allowed by applicable law. Although you agree that we have no obligation to sell the Equipment, if we do sell the Equipment, we will apply any proceeds we receive to reduce your obligations under this Section and any surplus remaining shall be returned to you. You agree (a) that we only need to give you 10 days advance notice of any sale and no notice of advertising, (b) to pay all of the costs we incur to enforce our rights against you including attorney's fees, and (c) that we will retain all of our rights against you even if we do not choose to enforce them at the time of your default. In addition to any other remedy permitted by law, we may at any time, without notice, at our option, proceed to enforce and protect our rights by an action in law or in equity or by any other appropriate proceedings.

15. **RETURN OF EQUIPMENT.** If (a) a default occurs, you will immediately return the Equipment, manuals and accessories to any location(s) and aboard any carrier(s) with prepaid freight and insurance as we may designate in the continental United States. The Equipment must be maintained in accordance with Section 7, and in "Average Saleable Condition" which means that all of the Equipment is immediately available for us by a third party buyer, user or borrower, other than yourself, without the need for any repair or refurbishment. You will pay us for any missing or defective parts or accessories.
16. **YOUR REPRESENTATIONS.** You state for our benefit that as of the date of this Loan (a) you have the lawful power and authority to enter into this Loan, (B) the individuals signing this Loan have been duly authorized to do so on your behalf, (c) by entering into this Loan you will not violate any law or other agreement to which you are a party, (d) you are not aware of anything that will have a material negative effect on your ability to satisfy your obligation under this Loan, and (e) all financial information you have provided us is true and accurate and provides a good representation of your financial condition.
17. **YOUR PROMISES.** In addition to the other provisions of this Loan, you agree that during the term of this Loan (a) you will promptly notify us in writing if you move your principal place of business, if you change the name of your business, or if there is a change in your ownership, (b) you will provide to us such financial information as we may reasonably request from time-to-time, and (c) you will take any action we reasonably request to protect our rights to the Equipment and to meet your obligations under this Loan.
18. **ASSIGNMENT. YOU WILL NOT SELL, TRANSFER, ASSIGN, PLEDGE, LEND OR PART WITH POSSESSION OF THE EQUIPMENT, OR FILE, OR PERMIT A LIEN TO BE FILED AGAINST THE EQUIPMENT.** We may, without notifying you, sell, assign, or transfer this Loan and our interests in the Equipment. You agree that if we do so, the new owner (and any subsequent owners) will have the same rights and benefits that we now have, but will not have to perform any of our obligations. You agree that the rights of the new owner will not be subject to any claims, defenses, or set-offs that you may have against us. Any such assignment, sale, or transfer of this Loan or Equipment will not relieve us of any obligations we may have to you under this Loan. If you relieve us of any obligations we may have to you under this Loan. If you are given notice of a new owner of this Loan, you agree to respond to any requests about this Loan and, if directed by us, to pay the new owner all payments and other amounts due under this Loan.
19. **COLLECTION, EXPENSES, OVERDUE PAYMENT.** You agree that we can, but do not have to, take on your behalf any action which you fail to take as required by this Loan, and our expenses will be in addition to of the payment which you owe us. To the extent allowed by law, any late payment or non-payment of any past due amount will accrue interest at the Contract rate from the due date until paid in full. You agree to pay the costs of collection and/or litigation, including attorney fees, plus interest at the Contract rate until paid in full.
20. **NSF CHECK CHARGES.** You promise to pay a check collection charge of \$20 plus any amount charged to us by any other financial institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument returned or dishonored for any reason.

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21. MISCELLANEOUS. This Loan contains our entire agreement and supersedes any conflicting provision of any equipment purchase order or any other agreement. TIME IS OF THE ESSENCE IN THIS LOAN. If a court finds any provision of this Loan to be unenforceable, the remaining terms of this Loan shall remain in effect. You authorize us (or our agent) to a) obtain credit reports, (b) make such other credit inquiries as we may deem necessary, and (c) furnish payment history information to payment reporting agencies. To the extent permitted by law, we may charge a fee to cover our documentation and investigation costs.
22. NOTICES. All of your written notices to us must be certified mail or recognized overnight delivery service, postage prepaid, to us at our address stated in this Loan, or by facsimile transmission to our facsimile telephone number, with oral confirmation of receipt. All of our notices to you may be sent first class mail, postage prepaid, to your address stated in this Loan. At any time after this Loan is signed, you or we may change an address or facsimile telephone number by giving notice to the other of the change.
23. WAIVERS. WE AND YOU EACH AGREE TO WAIVE AND TO TAKE ALL REQUIRED STEPS TO WAIVE ALL RIGHTS TO A JURY TRIAL. ANY ACTION YOU TAKE AGAINST US FOR ANY DEFAULT, INCLUDING ALLEGED BREACH OF WARRANTY OR INDEMNITY, MUST BE STARTED WITHIN ONE (1) YEAR AFTER THE EVENT WHICH CAUSED IT. We will not be liable for specific performance of this Loan for any losses, damages, delay or failure to deliver the Equipment. No failure of us to exercise any of our rights hereunder shall be deemed a waiver of any such rights or of any default. Demand, presentment, protest, notice of dishonor, notice of protest, notice of default, and all surety ship defenses are hereby waived by you.
24. COMMERCIAL PROMISSORY NOTE. You certify that the proceeds of this loan are to be used for business purposes. If this note is a renewal, in whole or in part, of a previous obligation, the acceptance of this note by us shall not effectuate a payment but rather a continuation of the previous obligation.
25. JURISDICTION. All rights and liabilities hereunder shall be governed and limited by and construed in accordance with the laws of the Commonwealth of Kentucky and the parties agree that the Boone County Kentucky Circuit Court is the exclusive Court to adjudicate any controversies related to this note. You specifically agree and do waive any defense based upon forum non conveniens. You also agree that this agreement and any related guarantees or other documents are deemed executed in the Commonwealth of Kentucky, even if executed by electronic means.
26. CO-MAKER. If you are signing this note as a co-maker, you understand that you are jointly and severally (equally) responsible with all other borrowers, and we may sue any or all of you. We are not required by law to notify you if the note is paid off. We can also alter the terms or payment of the note and release a lien from any security without notifying you.
27. EQUIPMENT. You state and agree that the Equipment purchased has been duly delivered, has been inspected, and is complete, functioning, and in good working order.
28. COUNTERPARTS. This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This agreement may be executed electronically. Without limiting the generality of the foregoing, delivery of an executed signature page to this agreement (or any related agreement or instrument) by e-mail attachment, other means of electronic transmission with authorization to attach it to this agreement (or any related agreement or instrument), or any other means of electronic transmission used to obtain an electronic signature shall be deemed to have the same legal effect as delivery of an original signed copy.

**YOU ACKNOWLEDGE RECEIPT OF A COMPLETELY FILLED-IN COPY OF THIS NOTE AND SECURITY AGREEMENT**

**WITNESS OUR HANDS AND SEALS ON THE DATE OF NOTE AS STATED ABOVE:**

BORROWER 1 NAME \_\_\_\_\_

{00144099.DOCX.}



BORROWER 1 SIGNATURE \_\_\_\_\_

BORROWER 2 NAME: \_\_\_\_\_

BORROWER 2 SIGNATURE \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

By (PRINT NAME): \_\_\_\_\_

TITLE: \_\_\_\_\_

WITNESS NAME \_\_\_\_\_

WITNESS SIGNATURE \_\_\_\_\_

WITNESS TITLE \_\_\_\_\_

### **ACH AUTHORIZATION FORM**

By signing below, I/WE authorize the above-named Eagle Financial Services, Inc. 7791 Dixie Hwy, Florence KY 41042 (859-525-3070) ("Company") to initiate recurring electronic automated clearing house (ACH) entries from MY/OUR Account indicated below, at the Bank named below, in order to make payments on MY/OUR Company contract and, if necessary, to initiate transactions to correct any erroneous payment debit. MY/OUR payments will begin on the date listed below and will occur on any specified dates thereafter until MY/OUR Company contract is paid in full or I/WE revoke this authorization (as provided below). In certain instances, the payment may be executed on the next business day. If MY/OUR Bank is unable to process any electronic ACH entry and/or if the amount due is more or less than the regularly scheduled amount, I/WE authorize Company to resubmit the ACH entry and/or to submit a paper draft(s) to the Bank for processing and payment, in any amounts necessary, and until such time as the full payment(s) obligation is met. If MY/OUR payment (whether in the form of an electronic ACH or a paper draft) is dishonored or returned unpaid by Bank, I/WE agree that Company may charge a return item fee and/or a late charge (if and to the extent applicable) to the extent allowed by law and/or MY/OUR Company contract. I/WE also acknowledge that Bank may also impose its own additional fees. I/WE acknowledge that the origination of ACH entries to MY/OUR Account must comply with and will be governed by all applicable laws.

This authorization will remain in effect until Company has received written notification from ME/US of termination at the address above. I/WE agree to notify Company in writing of any changes in Account information or termination of this authorization to afford a reasonable opportunity for Company and Bank time to act. This authorization and consent shall apply and be effective as to all future account information I may provide, including any new account information provided by phone. I/WE may call the number provided above to determine whether any transfer has/has not occurred. I/WE acknowledge this form is optional and not a condition for the granting of credit.

BANK NAME: \_\_\_\_\_ BANK ADDRESS: \_\_\_\_\_

NAME 1 ON BANK ACCOUNT: \_\_\_\_\_

NAME 2 ON BANK ACCOUNT: \_\_\_\_\_

TYPE OF ACCOUNT: ☐ PERSONAL CHECKING ☐ BUSINESS CHECKING

BANK ROUTING NUMBER: \_\_\_\_\_ BANK ACCOUNT NUMBER: \_\_\_\_\_

**I/WE ACKNOWLEDGE I/WE HAVE RECEIVED A COPY OF THIS AUTHORIZATION AND AGREE TO THE TERMS STATED. ALL PERSONS NAMED ABOVE MUST SIGN AND DATE BELOW.**

SIGN: \_\_\_\_\_ DATE: \_\_\_\_\_ SIGN: \_\_\_\_\_ DATE: \_\_\_\_\_

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NAME 1 ON ACCOUNT

NAME 2 ON ACCOUNT

{00144699.DOCX.}



If this box is marked, then under the terms of your Loan, you are required to carry adequate insurance coverage on financed equipment. Your insurance certificate is required prior to us funding your vendor. Homeowners Policies will not cover commercial financing. YOUR LOAN MAY NOT BE FUNDED UNTIL WE RECEIVE THIS INFORMATION.

Please provide a Certificate of Insurance showing the following:

- Above referenced Agreement #
- Name of the Insurance Company and Policy Number
- Effective and Expiration Date of Coverage.
- INSURED PARTY: The Borrower(s) listed above must be named as Insured.
- PHYSICAL DAMAGE INSURANCE: Lender must be named Loss Payee against any loss including fire, theft and any other standard peril normally covered under a commercial policy for an amount not less than the replacement cost of the equipment.
- LENDER AS LOSS PAYEE/ADDITIONAL INSURED
- DESCRIPTION OF EQUIPMENT: A description of equipment covered (including serial numbers) must be listed on or attached to the Certificate of Insurance.

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**EXHIBIT HI-7**

**TRAVELIN' TOM'S COFFEE FRANCHISE**

**RETAIL INSTALLMENT CONTRACT - ALLY FINANCIAL, INC.**

DEAL# 3726  
CUST#

**RETAIL INSTALLMENT CONTRACT - MOTOR VEHICLE - SIMPLE INTEREST**

FEDERAL TRUTH-IN-LENDING DISCLOSURE STATEMENT				
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.	Total Sale Price The total cost of your purchase on credit, including your downpayment of \$
0.00%	\$ 0.00	\$ 698.08	\$ 698.08	\$ 698.08

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
N/A	\$ 698.08	monthly beginning 09/05/2022
N/A	\$ N/A	N/A

**Security:** You are giving a security interest in the goods being purchased and in any moneys, credits or other property of yours in the possession of the Assignee, on deposit or otherwise.

**Late Charge:** If any payment is ten (10) days late, you will be charged: i) 5% of the installment if the installment is in excess of \$200.00; or ii) \$10.00 if the installment is for \$200.00 or less.

**Prepayment:** You have the right to prepay the unpaid balance in full or in part at anytime without penalty. See your contract terms below and on the reverse side for any additional information about nonpayment, default, any required repayment in full before the scheduled date, prepayment refunds and penalties and further information about security interests.

Buyer(s) \_\_\_\_\_  
(Names)  
\_\_\_\_\_  
(Address) \_\_\_\_\_ (City) (State) (Zip)

Buyer(s) N/A  
(Names)  
N/A  
(Address) \_\_\_\_\_ (City) (State) (Zip)

Seller **JERRY HAGGERTY CHEVROLET**  
(Corporate Firm or Trade Name)  
**300 ROOSEVELT RD** **GLEN ELLYN, IL 60137**  
(Business Address) (City) (State) (Zip)

Seller hereby sells and Buyer or Buyers, jointly and severally, hereby purchase the following motor vehicle with accessories and equipment thereon for the deferred payment price and on the terms set forth in this contract. Buyer acknowledges delivery and acceptance of said motor vehicle.

The vehicle will be used primarily for personal, family, household or agricultural purposes. However, if the following box is checked the vehicle will be used primarily for business or commercial purposes: ☐

New or Used	Year	Make of Vehicle	Model	Body Style	No. Cyl.	Vehicle Identification Number	Body Color	Odometer	Key No.
				N/A					

Buyer Promises to pay to the order of Seller at the offices of:

(Assignee) located in \_\_\_\_\_

the Amount Financed shown above together with a Finance Charge on the principal balance of the Amount Financed from time to time unpaid at the rate of \_\_\_\_\_ % per annum from date until maturity in \_\_\_\_\_ installments of \$ **698.08** each and a final installment of \$ **698.08** beginning on **September 5th** **2022**

and continuing on the same day of each successive month thereafter until fully paid. All payments shall be applied first to accrued Finance Charge and the balance to principal. The Finance Charge has been computed on the scheduled unpaid balances of the Amount Financed on the assumption that all scheduled installments will be paid when due. Guarantor, if any, guarantees collection of all amounts due under this contract upon failure of the Seller to collect from the Buyer named herein. Herein, Holder means the motor vehicle retail Seller, sales finance agency, or any other Assignee that purchases or makes a loan upon the security of this retail installment contract.

**Attention consumer: sign here only if the Seller has told you that this vehicle has the following problem or problems and you agree to buy the vehicle on those terms:**

1. N/A  
2. N/A  
3. N/A

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

Co-Buyer Signature: \_\_\_\_\_ N/A

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# THE FOLLOWING APPLIES ONLY IF THE VEHICLE IS A USED VEHICLE AND IS NOT AN ANTIQUE VEHICLE AS DEFINED IN THE ILLINOIS VEHICLE CODE, OR A COLLECTOR VEHICLE AS DEFINED IN THE ILLINOIS VEHICLE CODE.

not apply to a vehicle with more than 150,000 miles at the time of sale.

Illinois law requires that this vehicle will be free of a defect in a power train component for 15 days or 500 miles after delivery, whichever is earlier, except with regard to particular defects disclosed on the first page of this agreement. "Power train component" means the engine block, head, all internal engine parts, oil pan and gaskets, water pump, intake manifold, transmission, and all internal transmission parts, torque converter, drive shaft, universal joints, rear axle and all rear axle internal parts, and rear wheel bearings. You (the consumer) will have to pay up to \$100 for each of the first 2 repairs if the warranty is violated.

INSURANCE AGREEMENT: Motor Vehicle Damage or Loss Insurance is required by Seller. (Buyer may choose the person through whom the insurance is to be obtained.) If such insurance is to be obtained through Seller, the cost for a term of N/A months will be \$ N/A.

**LIABILITY INSURANCE COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE CAUSED TO OTHERS IS NOT INCLUDED IN THIS CONTRACT.** Credit Insurance is not required by Seller nor is it a factor in approval of the extension of credit. No credit insurance is to be provided unless the Buyer is approved for proper authorization below. Group Credit Insurance is available for the term of the credit upon acceptance by insurer at the following costs:

Credit Life Insurance \$ <u>N/A</u>	Credit Disability Insurance \$ <u>N/A</u>
Desire Credit Life Insurance: <u>N/A</u> (Age of Insured) (Signature) (Date)	Desire Credit Disability Insurance: <u>N/A</u> (Age of Insured) (Signature) (Date)
<u>N/A</u> (Age of Insured) (Signature) (Date)	<u>N/A</u> (Age of Insured) (Signature) (Date)
<u>N/A</u> (Age of Insured) (Signature) (Date)	<u>N/A</u> (Age of Insured) (Signature) (Date)

SEE \* NOTE 1 \* HEREOF FOR INFORMATION ON POSSIBLE REFUND OF CREDIT LIFE OR DISABILITY INSURANCE PREMIUM.

**NOTICE OF PROPOSED GROUP CREDIT LIFE INSURANCE**  
If a charge is made above for credit life insurance and if such insurance is to be procured by Assignee, the undersigned takes notice that the decreasing term insurance within which the credit life insurance policy is to be purchased on the life of the Buyer or Buyers who signed above requesting it, subject to acceptance by the insurer and issuance of a certificate of insurance, (Home Office Address) N/A

The amount of premium is shown above. The term of insurance will commence on the date of this contract and expire on the originally scheduled maturity date of the indebtedness. The initial amount of insurance will be equal to the initial indebtedness and will decrease as any payment is made on the indebtedness in arrears. The amount of the payment by the ratio of initial insurance over the initial indebtedness. The proceeds of any insurance paid will be applied to reduce the indebtedness. If insurance is terminated prior to the scheduled maturity date of the indebtedness, any premium refund will be paid or credited to the Buyer or Buyers entitled thereto. Refund formula is on file with the Director of Insurance and with creditor. All of the foregoing is subject to the provisions of the certificate of insurance issued by the insurer.

Other Insurance: N/A (Type of Insurance) the cost for a term of N/A months will be \$ N/A.  
BUYER AGREES THAT THE PROVISIONS ON PAGES 3 & 4 HEREOF SHALL CONSTITUTE A PART OF THIS RETAIL INSTALLMENT CONTRACT AND BE INCORPORATED HEREIN.  
DOCUMENTARY FEE: A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PERFORMING SERVICES RELATED TO CLOSING OF A SALE. THE BASE DOCUMENTARY FEE IS \$300.00, WHICH SHALL BE SUBJECT TO AN ANNUAL RATE ADJUSTMENT EQUAL TO THE PERCENTAGE OF CHANGE IN THE BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX. THIS NOTICE IS REQUIRED BY LAW.

The Annual Percentage Rate may be negotiable with the Seller. If this Contract is assigned, Seller may retain or receive a portion of the Finance Charge.  
NOTICE TO BUYER: 1. Do not sign this agreement before you read it or if it contains any blank spaces. 2. You are entitled to an exact copy of the agreement you sign. 3. Under the law you have the right, among others, to pay in advance the full amount due and to obtain under certain conditions a partial refund of the finance charge. Buyer confirms receiving a copy of this contract and had a chance to read and review it before Buyer signed it. By signing below, Buyer agrees to the terms of this contract. Guarantor, if any, acknowledges receipt of completed copies of this contract and of Explanation of Guarantor's Obligation.  
CO-BUYER: A Co-Buyer is a person who agrees to be primarily responsible for paying the entire debt and who (1) actually receives the vehicle or (2) is a parent or spouse of the Buyer, or (3) will be listed as an owner on the vehicle's title. By signing below, (1) I confirm that I will actually receive possession of the vehicle or will use it, or that I am a parent or spouse of the Buyer, or that I will be listed as an owner on the vehicle's title. I agree to be primarily obligated under this contract; and (3) I consent to the Creditor having a security interest in the vehicle.

Date: 07/22/2022

Seller: JERRY HAGGERTY CHEVROLET

By: N/A TITLE

Guarantor: N/A

Guarantor Address: N/A

I hereby guarantee the collection of the above described amount upon failure of the Seller named herein to collect said amount from the Buyer named herein.

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

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Co-Buyer Signature: N/A

Buyer(s) acknowledges receipt of a fully completed and executed copy of this Contract.  
**RETAIL INSTALLMENT CONTRACT**

Buyer: \_\_\_\_\_  
Buyer: N/A

INSTRUCTIONS: If parent, spouse, or other person who is or will be listed as an owner on the vehicle's title is a co-buyer, sign as such. Other co-signers, sign on the Guarantor line.

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# ADDITIONAL AGREEMENTS OF BUYER

1. **SECURITY INTERESTS:** Seller is granted a purchase-money security interest in the motor vehicle described and all accessions under the Illinois Uniform Commercial Code until the Total of Payments and all future indebtedness for taxes, liens, repairs and insurance premiums advanced by Holder hereunder are paid in full. Buyer grants Assignee the right of set-off or lien on any moneys, credits or other property of Buyer in possession of the Assignee, on deposit or otherwise, excepting IRA or similar deposits. Seller is also granted a security interest in any premium rebates for insurance or service contracts, if financed hereunder, in the proceeds of any insurance or service contract on the motor vehicle, and in the proceeds of any credit life and/or accident and health insurance financed hereunder, until all amounts due under this contract are paid in full.
2. **ACCELERATION:** Buyer agrees that (1) if Buyer shall default in the payment of any installment of the Total of Payments or any other indebtedness due hereon; or (2) if Buyer shall fail to perform any agreement or warranty made by Buyer herein; or (3) if the motor vehicle shall be lost, stolen, substantially damaged, destroyed, sold, encumbered, removed, concealed, attached or levied upon; or (4) if the motor vehicle shall be seized or forfeited for violation of any law or ordinance, State, Federal or Municipal; or (5) a proceeding under any bankruptcy or insolvency statute shall be instituted by or against Buyer or Buyer's business or property; or Buyer shall make an assignment for benefit of creditors; or (6) if Buyer shall be or be adjudged incompetent; or (7) if Holder shall, for reasonable cause, deem itself insecure; or (8) if Buyer shall fail to keep the motor vehicle fully insured for the entire term of this contract, the Holder may declare all unpaid installments of the Total of Payments and all other indebtedness secured hereby immediately due and payable, without notice or demand, subject to right of reinstatement, if applicable.
3. **PREPAYMENT:** THE BUYER MAY PREPAY IN FULL OR IN PART THE UNPAID BALANCE OF THE CONTRACT AT ANY TIME WITHOUT PENALTY.
4. **DELINQUENCY CHARGE:** If any payment is ten (10) days late, you will be charged: i) 5% of the installment if the installment is in excess of \$200.00; or ii) \$10.00 if the installment is for \$200.00 or less. In addition, Buyer agrees to pay reasonable attorneys' fees, costs and expenses incurred in the collection or enforcement of the debt or in realizing on the collateral. Buyer agrees to pay Finance Charges after maturity of the final installment, or after acceleration upon default, at the Annual Percentage Rate stated herein so long as there are any unsecured default hereunder, all without relief from valuation or appraisal laws.
5. Waiver of any default in the payment of any installment of the total of payments when due shall not operate as a waiver of any subsequent default. No extension or let time of payment or any other modification of the terms of this contract shall be binding on Holder unless written consent thereto is given by an executive officer or Holder. This contract shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns.
6. Buyer agrees to keep said motor vehicle fully insured against loss by fire, theft and collision for the entire term of this contract in companies acceptable to Holder. Holder is authorized to purchase all insurance included in this contract, insurance coverages, other than required insurance, have been voluntarily contracted for by Buyer. Buyer agrees to select to purchase any required insurance from an insurance company, agent or broker of his own choice. If Buyer so elects, he shall furnish Seller with a policy or binder issued by a company acceptable to Seller on or before taking possession of the motor vehicle, and inclusion of Buyer's premiums in this contract is optional with Seller. All policies procured by Buyer shall provide that loss, if any, shall be payable to Buyer and to the Holder of this contract, as their respective interest may appear and a clause requiring insurer to give the Holder 10 days written notice of cancellation, in the event of the failure of Buyer to insure said motor vehicle or to deliver a fully paid policy to Holder at the times and in the manner herein required, or hereunder. Holder shall have the option, but shall not be required, to procure such insurance for Buyer and to advance the premium therefor. Buyer hereby promises to pay any such premium with finance charge thereon at the annual percentage rate stated on the reverse side hereof as an additional indebtedness due hereunder. Buyer hereby promises to pay any such proceeds of all insurance on said motor vehicle including unearned premium refunds. In the event of default by Buyer hereunder, Holder is authorized to cancel such insurance, receive and receipt for unearned premiums and to endorse any check or draft therefor made payable to Buyer. Any unearned premium received by the Holder shall be credited to the final maturing installments of this contract except to the extent applied toward payment for similar insurance protecting the interest of Buyer and the Holder, or either of them.
7. **COLLATERAL PROTECTION INSURANCE:** Unless you provide us with evidence of the insurance coverage required by your agreement with us, we may purchase insurance at your expense to protect our interests in your collateral. This insurance may, but need not, protect your interests. The coverage that we purchase may not pay any claim that you make obtained insurance as required by our agreement. If we purchase insurance for the collateral, you will be responsible for the costs of that insurance, including interest and any other charges we may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to your total outstanding balance or obligation. The costs of the insurance may be more than the cost of insurance you may be able to obtain on your own.
8. Buyer shall not use or permit said motor vehicle to be used in violation of any law or ordinance, State, Federal, or Municipal. Buyer shall not sell, lease, encumber or place said motor vehicle in any other person's possession or remove it from the U.S. without the written consent of the Holder of this contract. Buyer shall not use said motor vehicle for hire or as a taxi. Buyer shall keep said motor vehicle free from all mechanic's liens, tax liens and all other liens.
9. Upon the occurrence of any event of default, the Holder of this contract shall have the rights and remedies provided by Article 9 of the Illinois Uniform Commercial Code including, but not by way of limitation, the rights of the Holder (a) to take immediate possession of the motor vehicle, with or without judicial process, and for such purpose, to enter upon the premises where it may be located; and (b) to give Buyer reasonable notice of the time and place of any public sale thereof or of the time after which any private sale of the motor vehicle shall be made; and (c) to dispose of the motor vehicle at public or private sale in accordance with said notice to Buyer and to buy at a public sale; and (d) to apply the proceeds of sale first to the reasonable expenses of retaking, holding, preparing for sale and selling and to reasonable attorneys' fees and legal expenses incurred by Holder, and second, to satisfaction of Buyer's indebtedness hereon, and third, to satisfaction of any subordinate security interest in the motor vehicle if demand therefor is received by Holder before disposition of the proceeds, and to account to Buyer for any surplus remaining. Buyer shall be liable for any deficiency. It is expressly agreed by Buyer that the requirements of the Holder, whether provided for in this contract or conferred by law, are cumulative.
10. Holder is authorized to apply any payment made by Buyer hereon to any other indebtedness of Buyer to Holder, whether arising under the contract or otherwise.
11. Buyer agrees that Holder, in retaking said motor vehicle as herein provided, may take possession of personal effects and property found therein and hold the same for delivery to Buyer.
12. Buyer agrees that Holder may try to contact Buyer in writing, by email, or using prerecorded/artificial voice messages, text messages, and automatic telephone dialing systems, as the law allows. Buyer also agrees that Holder may try to contact Buyer in these and other ways at any address or telephone number Buyer provides, even if the telephone number is a mobile phone number or the contact results in a charge to the Buyer.
13. The terms of this contract are governed by the laws of the State of Illinois. If any provision of this contract is held invalid, the invalidity shall not affect the remaining provisions thereof.

**USED MOTOR VEHICLE BUYER'S GUIDE.** If you are purchasing a used vehicle with this contract: THE INFORMATION YOU SEE ON THE WINDOW FORM FOR THIS USED VEHICLE IS A PART OF THIS CONTRACT. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT OF SALE. Spanish Translation: Guía para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla deja sin efecto toda disposición en contrario contenida en el contrato de venta.

**NOTICE:** ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER. The preceding NOTICE applies only to goods and services obtained primarily for personal, family, or household use. In all other cases, Buyer will not assert against any subsequent Holder or Assignee of this contract any claims or defenses the Buyer (debtor) may have against the Seller or manufacturer of the vehicle or equipment obtained under this contract.

**\*NOTE 1\*** "NOTICE OF POSSIBLE REFUND OF CREDIT LIFE OR DISABILITY INSURANCE PREMIUM."  
 (1) IF YOU HAVE PURCHASED EITHER CREDIT LIFE OR CREDIT DISABILITY INSURANCE, OR BOTH, TO GUARANTEE PAYMENTS BEING MADE IN CASE OF YOUR DEATH OR DISABILITY, ON YOUR VEHICLE PURCHASED UNDER AN INSTALLMENT SALES CONTRACT, YOU MAY BE ENTITLED TO A PARTIAL REFUND OF YOUR PREMIUM IF YOU PAY OFF YOUR INSTALLMENT LOAN EARLY. (2) IN CASE OF EARLY COMPLETE PAYMENT OF YOUR LOAN, YOU SHOULD CONTACT THE SELLER OF YOUR CREDIT LIFE OR CREDIT DISABILITY INSURANCE TO SEE IF A REFUND IS DUE. IF YOUR VEHICLE DEALER FINANCED YOUR LOAN, THE SELLER OF YOUR CREDIT LIFE OR CREDIT DISABILITY INSURANCE IS YOUR VEHICLE DEALER.

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

Co-Buyer Signature: \_\_\_\_\_ N/A

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FOR VALUE RECEIVED, Seller hereby sells, assigns and transfers to

ASSIGNMENT

ASSIGNEE, (its successors and assigns, all of Seller's right, title and interest in and to the within contract and the motor vehicle described therein. To induce Assignee to purchase said contract, Seller represents and warrants to Assignee (1) that the within contract is valid and genuine and correctly states the terms of the retail installment contract between Seller and Buyer, (2) that the motor vehicle described has been delivered to and accepted by the Buyer, (3) that the down payment was paid in full, in cash or in trade, and that no part of the same was paid by Seller, (4) that Seller had good title to and the right to sell said motor vehicle to Buyer and that the motor vehicle is free of all liens, claims and encumbrances, (5) that Seller has the right to sell and assign this contract to Assignee, (6) that Seller has a completed copy of the contract and to the Guarantor a completed copy of the contract and Explanation of Guarantor's Obligation, (7) that all Buyers have legal capacity to contract, (8) that on the date of the contract Seller executed and delivered to each governmental agency, (9) that on the date of the contract, Seller assigned to Buyer the Manufacturer's Statement of Origin or the existing Certificate of Title, as the case may be, issued covering said motor vehicle, procured from Buyer a signed application for a new certificate of title to be issued to Assignee showing correct ownership of the State of Illinois all of the documents described with the prescribed fee, (10) that the motor vehicle has not been used as a taxi or for hire or for commercial transportation or for any other purpose, (11) that the sale was made at Seller's place of business and was not a door-to-door sale within the definition of the Federal Trade Commission Trade Regulation Rule on the Illinois Consumer Fraud Act; and (12) that the Seller believes the Buyer to be of good moral character and that Buyer will not use or permit said vehicle to be used for any unlawful purpose. If any of the foregoing representations and warranties is breached, Seller agrees to repurchase the within contract for the unpaid balance and all other indebtedness due from Buyer thereon, together with reasonable attorneys' fees, costs and expenses incurred by Assignee.

Dated: 07/22/2022

JERRY HAGGERTY CHEVROLET, Inc.

Seller

Authorized Signature

AGENT

Title

In Addition to Seller's obligations set forth in the above assignment, Seller agrees, in the event a claim or defense is asserted against Assignee by the Buyer at any time, to demand, repurchase the within contract for cash at a price equal to the net amount remaining unpaid on said contract, and Seller shall indemnify and hold Assignee harmless from all and all liabilities that may result at any time from any claim asserted by Buyer for recovery of amounts paid arising out of any promise, representation or warranty made by Seller to the Manufacturer to Buyer.

Dated: N/A

N/A

Seller

By:

Authorized Signature

N/A

Title

In Addition to Seller's obligations to set forth in the above assignment, Seller agrees, in the event that Assignee repossesses the motor vehicle described in the within contract for non-payment of amounts due from Buyer under the within contract, Seller shall, on demand, repurchase said motor vehicle for cash at a price equal to the amount remaining unpaid on said contract, and Seller shall indemnify and hold Assignee harmless from all and all liabilities that may result at any time from any claim asserted by Buyer for recovery of amounts paid arising out of any promise, representation or warranty made by Seller to the Manufacturer to Buyer. Extension of the time of payment or variation of terms effected by Assignee with Buyer shall not release Seller from his obligation hereunder.

Dated: N/A

N/A

Seller

By:

Authorized Signature

N/A

Title

In Addition to Seller's obligations set forth in the above assignment, Seller agrees, in the event that Assignee repossesses the motor vehicle described in the within contract for non-payment of amounts due from Buyer under the within contract, Seller shall, on demand, repurchase said motor vehicle for cash at a price equal to the amount remaining unpaid on said contract, and Seller shall indemnify and hold Assignee harmless from all and all liabilities that may result at any time from any claim asserted by Buyer for recovery of amounts paid arising out of any promise, representation or warranty made by Seller to the Manufacturer to Buyer. Extension of the time of payment or variation of terms effected by Assignee with Buyer shall not release Seller from his obligation hereunder.

Dated: N/A

N/A

Seller

By:

Authorized Signature

N/A

Title

In Addition to Seller's obligations set forth in the above assignment, Seller agrees, in the event that Assignee repossesses the motor vehicle described in the within contract for non-payment of amounts due from Buyer under the within contract, Seller shall, on demand, repurchase said motor vehicle for cash at a price equal to the amount remaining unpaid on said contract, and Seller shall indemnify and hold Assignee harmless from all and all liabilities that may result at any time from any claim asserted by Buyer for recovery of amounts paid arising out of any promise, representation or warranty made by Seller to the Manufacturer to Buyer. Extension of the time of payment or variation of terms effected by Assignee with Buyer shall not release Seller from his obligation hereunder.

Dated: N/A

N/A

Seller

By:

Authorized Signature

N/A

Title

Instead of the Seller's obligations set forth in the above assignment and other listed agreements (Repurchase, Full Recourse, Limited Repurchase, and Limited Guarantee), a separate assignment agreement is made under the terms of a separate agreement made between Seller and Assignee.

Dated: N/A

N/A

Seller

By:

Authorized Signature

AGENT

Title

NO PUBLIC LIABILITY INSURANCE ISSUED WITH THIS TRANSACTION

Buyer Signature:

Co-Buyer Signature:

N/A

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Form IFI-26L (Rev. 1/20)  
07/22/2022 04:48 pm

Motor Vehicle Retail Installment Contract - Finance with T-1 Disclosure  
Simple Interest - Fixed Rate

DEAL# 3726  
COST#

RETAIL INSTALLMENT CONTRACT - MOTOR VEHICLE - SIMPLE INTEREST

FEDERAL TRUTH-IN-LENDING DISCLOSURE STATEMENT				
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount this credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.	Total Sale Price The total cost of your purchase on credit including your downpayment of
9.99%	\$ 0.00	\$ 698.08	\$ 698.08	\$ 698.08

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
N/A	\$ 698.08	Monthly beginning 09/05/2022
N/A	N/A	N/A

Security: You are giving a security interest in the goods being purchased and in any goods or property of yours in the possession of the Assignee, on deposit or otherwise.

Late Charge: If any payment is late (10 days late), you will be charged a 5% of the installment if the installment is in excess of \$200.00, or a \$10.00 if the installment is for \$200.00 or less.

Prepayment: You have the right to prepay the unpaid balance in full or in part at anytime without penalty. See your contract for more details and on the reverse side for any additional information about nonpayment, default, any required repayment is due before the scheduled date. Prepayment refunds and penalties and further information about security interests.

Buyer(s): \_\_\_\_\_  
(Names)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(City) (State) (Zip)  
Buyer(s): N/A  
(Names)  
N/A  
(Address)  
N/A  
(City) (State) (Zip)  
Seller: JERRY HAGGERTY CHEVROLET  
(Corporate Firm or Trade Name)  
300 ROOSEVELT RD. GLEN ELLYN, IL 60137  
(Business Address) (City) (State) (Zip)

58327  
Itemization of Amount Financed  
1. Cash Price \$ N/A  
2. Less Cash Downpayment \$ N/A  
3. Less Other Downpayment (describe) \$ N/A  
4. Trade-In  
Value of Trade-In \$ N/A  
Total \$ N/A  
5. Net Payoff \$ N/A  
6. Total Downpayment \$ 0.00  
7. Total Amount Financed (3 + 4 - 5) \$ 0.00  
8. Unpaid Balance at Cash Price \$ N/A  
Amount Paid in Others for the  
WE MAY BE RETAINING A PORTION OF THIS AMOUNT  
Unpaid balance  
Due on Trade-In \$ N/A  
Year, Make, Model of Buyer's Trade-In  
(Paid for) N/A  
Insurance Companies:  
To AA \$ N/A  
To BA \$ N/A  
To CA \$ N/A  
To DA \$ N/A  
To EA \$ N/A  
To FA \$ N/A  
To GA \$ N/A  
To HA \$ N/A  
To IA \$ N/A  
To JA \$ N/A  
To KA \$ N/A  
To LA \$ N/A  
To MA \$ N/A  
To NA \$ N/A  
To OA \$ N/A  
To PA \$ N/A  
To QA \$ N/A  
To RA \$ N/A  
To SA \$ N/A  
To TA \$ N/A  
To UA \$ N/A  
To VA \$ N/A  
To WA \$ N/A  
To YA \$ N/A  
To ZA \$ N/A  
9. Total Other Charges & Amount Paid in Others for you  
10. Amount Financed (3 + 4 - 5) \$ 0.00

Seller hereby sells and Buyer or Buyers, jointly and severally, hereby purchase the following motor vehicle with accessories and equipment listed on the deferred payment price and on the terms set forth in this contract. Buyer acknowledges delivery and acceptance of said motor vehicle.  
The vehicle will be used primarily for personal, family, household or agricultural purposes. However, if the following box is checked, the vehicle will be used primarily for business or commercial purposes. ( )

New or Used	Year	Make of Vehicle	Model	Body Style	No. Cyl.	Vehicle Identification Number	Body Color	Odorometer	Miles AC
				N/A					

Buyer Promises to pay to the order of Seller at the offices of: \_\_\_\_\_ (Assignee) located in: \_\_\_\_\_

The Annual Finance Charge shown above together with a Finance Charge on the principal balance of the Amount Financed from time to time unpaid at the rate of \_\_\_\_\_ per annum from date until maturity in \_\_\_\_\_ installments of \$ \_\_\_\_\_ each and a final installment of \$ \_\_\_\_\_ beginning on \_\_\_\_\_

September 5th 2022 and continuing on the same day of each successive month thereafter until fully paid. All payments shall be made in full to the order of Finance Charge and the balance to principal. The Finance Charge has been computed on the scheduled unpaid balance of the Amount Financed in the assumption that all payments are made when due. Guarantee, if any, guarantees collection of all amounts due under this contract, notwithstanding of the Seller to collect from the Buyer under terms of this contract. The motor vehicle retail seller, sales finance agency, or any other Assignee that purchases or makes a loan under the security of this retail installment contract.

Attention consumer: sign here only if the Seller has told you that this vehicle has the following problem or problems and you agree to buy the vehicle on those terms:

1. N/A  
2. N/A  
3. N/A  
Buyer Signature \_\_\_\_\_  
Co-Buyer Signature \_\_\_\_\_  
N/A  
Buyer Signature \_\_\_\_\_  
N/A

Buyer Signature \_\_\_\_\_  
Co-Buyer Signature \_\_\_\_\_  
N/A  
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**ADDITIONAL AGREEMENTS OF BUYER**

1. **SECURITY INTERESTS:** Seller is granted a purchase-money security interest in the motor vehicle described and all accessions under the Uniform Commercial Code, and all future indebtedness for taxes, liens, repairs and insurance premiums advanced by Holder hereunder are paid in full. Buyer grants Assignment of all or any part of its money, credit or other property of Buyer in possession of the Addressee, on deposit or otherwise, excepting IRA or similar deposits, Seller in full satisfaction of all or any part of the purchase price of the motor vehicle described and all accessions under the Uniform Commercial Code, and all future indebtedness for taxes, liens, repairs and insurance premiums advanced by Holder hereunder. In the proceeds of any insurance or service contract on the motor vehicle described and all accessions under the Uniform Commercial Code, Seller is granted a security interest in the proceeds of any insurance or service contract on the motor vehicle described and all accessions under the Uniform Commercial Code, and all future indebtedness for taxes, liens, repairs and insurance premiums advanced by Holder hereunder are paid in full.

2. **ACCELERATION:** Buyer agrees that (1) if Buyer should default in any way, the entire amount of the purchase price of the motor vehicle described and all accessions under the Uniform Commercial Code, and all future indebtedness for taxes, liens, repairs and insurance premiums advanced by Holder hereunder are paid in full.

[illegible]

2. **PREPAYMENT.** THE BUYER MAY PREPAY IN FULL OR IN PART THE UNPAID BALANCE OF THE CONTRACT AT ANY TIME WITHOUT PENALTY.

3. **DELINQUENCY CHARGE.** If any payment is ten (10) days late, you will be charged 1/2% of the installment if the installment is in excess of \$200.00 or \$18.00 if the installment is \$200.00 or less. In addition, Buyer agrees to pay reasonable attorneys' fees, costs and expenses incurred in the collection or enforcement of the debt or in remedy of Buyer's failure to pay Finance Charges after maturity of the final installment, or after acceleration upon default, at the Annual Percentage Rate stated herein and to pay all such costs and expenses.

4. **WAIVER OF DEFENSE.** Buyer hereby waives all defenses, claims and counterclaims against the lender, its agents and assigns, with respect to this contract, whether or not known by Buyer at the time of execution of this contract.

5. Waiver of any default in the payment of any installment of the total of payments under this lease shall not operate as a waiver of any subsequent default, and any other modification of the terms of this contract shall be binding on neither party unless written consent thereto is given by an executive officer of the Lessor.

[illegible]

**7. COLLATERAL PROTECTION INSURANCE.** Unless you provide us with evidence of the insurance coverage protecting the interest of Buyer and the Holder of either (a) the Note or (b) the Certificate, we may, at our expense, purchase such insurance to protect our interests in your collateral. This insurance may, but need not, protect your interests. The coverage that we purchase may not pay any claim for any claim that is made against you in connection with the collateral. You may later cancel any insurance purchased by us, but only after providing us with written notice of your cancellation as required by our agreement. If we purchase insurance for the collateral, you will be responsible for the costs of that insurance, and we may impose in connection with any placement of the insurance, any other terms, conditions, or restrictions on the insurance.

**6.** Buyer shall not use or permit said motor vehicle to be used in violation of any law or ordinance. Seller, Federal or Municipal. Buyer shall not sell, lease, assign, transfer or otherwise dispose of said motor vehicle without the written consent of the Holder of this contract. Buyer shall not use

9 Upon the occurrence of any event of default, the Holder of this Contract shall have the rights and remedies provided by Article 8 of the Uniform Commercial Code, including but not by way of limitation, the right(s) of the Holder (a) to take immediate possession of the motor vehicle, with or without judicial process, and for such purpose to remove the same from any location where it may be located; and (b) to give Buyer reasonable notice of the time and place of any public sale thereof, conducted in full compliance with applicable law.

[illegible]

10. Buyer is authorized to apply any payment made by Buyer (in part or in full) to any other indebtedness of Buyer to Provider, whether arising under the contract or otherwise.

18 Buyer agrees that Seller, in releasing said motor vehicle as herein provided, may have possession of personal effects and property found therein and should in cases as

15. The terms of this contract are governed by the laws of the State of Illinois. If any provision of this contract is held to be unenforceable under applicable law, the remaining provisions shall survive. Buyer agrees that Buyer may, by text or email, be contacted by Seller at any time and place by text or email, or by any other means, including but not limited to, telephone, fax, or mail, for the purpose of providing information to Buyer or for the purpose of providing information to Seller. Buyer agrees that Buyer may, by text or email, be contacted by Seller at any time and place by text or email, or by any other means, including but not limited to, telephone, fax, or mail, for the purpose of providing information to Buyer or for the purpose of providing information to Seller.

13. The terms of this contract are governed by the laws of the State of Illinois. If any provision of this contract is held invalid, the invalidity shall not affect the remaining provisions hereof.

**USED MOTOR VEHICLE BUYER'S GUIDE.** If you are purchasing a used vehicle with this document, THE MOTOR VEHICLE BUYER'S GUIDE is required by law to be provided to you. It is located on the back of this document.

OR THIS USED VEHICLE IS A PART OF THIS CONTRACT. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT OF SALE. Spanish Translation: Guía para compradores de vehículos usados. La información que va en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla deja sin efecto toda disposición en contrario contenida en el contrato de venta.

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER. The preceding NOTICE applies only to goods and services obtained primarily for personal, family, or household use. In all other cases, Buyer will not assert against any subsequent Holder or Assignee of this contract any claims or defenses the Buyer (debtors) may have against the Seller or manufacturer of the vehicle or equipment obtained under this contract.

NOTE 1 \* "NOTICE OF POSSIBLE REFUND OF CREDIT LIFE OR DISABILITY INSURANCE PREMIUM."

IF YOU HAVE PURCHASED EITHER CREDIT LIFE OR CREDIT DISABILITY INSURANCE, OR BOTH, TO GUARANTEE PAYMENTS BEING MADE IN CASE OF YOUR DEATH OR DISABILITY, ON YOUR VEHICLE PURCHASED UNDER AN INSTALLMENT SALES CONTRACT, YOU MAY BE ENTITLED TO A PARTIAL REFUND OF YOUR PREMIUM IF YOU PAY OFF YOUR INSTALLMENT LOAN EARLY. (2) IN CASE OF EARLY COMPLETE PAYMENT OF YOUR LOAN, YOU SHOULD CONTACT THE SELLER OF YOUR CREDIT LIFE OR CREDIT DISABILITY INSURANCE TO SEE IF A REFUND IS DUE. IF YOUR VEHICLE DEALER FINANCED YOUR LOAN, THE SELLER OF YOUR CREDIT LIFE OR CREDIT DISABILITY INSURANCE IS YOUR VEHICLE DEALER.

Buyer Signature \_\_\_\_\_ Co-Buyer Signature \_\_\_\_\_ N/A

Co-Buyer Signature \_\_\_\_\_ N/A

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07/22/2025 04:06 pm



FOR VALUE RECEIVED, Seller hereby sells, assigns and transfers to

ASSIGNMENT

(Name of Assignee) \_\_\_\_\_ (Address of Assignee) \_\_\_\_\_  
ASSIGNEE, its successors and assigns, all of Seller's right, title and interest in and to the within contract and the motor vehicle described therein. To induce assignee to purchase the within contract, Seller represents and warrants to Assignee (1) that the within contract is valid and genuine and correctly states the terms of the retail installment contract; (2) that the motor vehicle described has been delivered to and accepted by the Buyer; (3) that the down payment was paid in full; in cash or otherwise, and that the balance of any balance or right of action has been received by Seller from Buyer and that the motor vehicle is free of all liens, claims and encumbrances; (4) that Seller has good title to and the right to sell said motor vehicle to Buyer and that the motor vehicle has been delivered to Buyer and that the motor vehicle is free of all liens, claims and encumbrances; (5) that all Buyers have legal capacity to contract; (6) that no debt of the contract shall be made a part of the contract; (7) that all Buyers have legal capacity to contract; (8) that no debt of the contract shall be made a part of the contract; (9) that no debt of the contract shall be made a part of the contract; (10) that on the date of the contract, Seller assigned to Buyer the Manufacturer's Statement of Origin or the existing Certificate of Title as required by the Federal Trade Commission, the Federal Equal Credit Opportunity Act and the Illinois Motor Vehicle Retail Installment Sales Act; (11) that Seller has provided and delivered to Buyer a copy of the contract and a copy of the Manufacturer's Statement of Origin or the existing Certificate of Title as required by the Federal Trade Commission, the Federal Equal Credit Opportunity Act and the Illinois Motor Vehicle Retail Installment Sales Act; (12) that the sale was made at Seller's place of business and was not a door-to-door sale within the definition of the Federal Trade Commission Title A, Chapter 1, Section 1.01, of the Illinois Consumer Fraud Act; and (13) that the Seller believes the Buyer is not of unsound mind and that Buyer will not use or permit said vehicle to be used for any of the foregoing representations and warranties is breached. Seller agrees to repurchase the within contract for the unpaid balance and all other obligations of Buyer hereon, together with reasonable attorneys' fees, costs and expenses incurred by Assignee.

Date: 07/22/2022

JERRY HAGGERTY CHEVROLET

Seller

Authorized Signature

IN ADDITION TO SELLER'S OBLIGATIONS SET FORTH IN THE ABOVE ASSIGNMENT, SELLER AGREES, IN THE EVENT A CLAIM OF DEFENSE IS ASSERTED AGAINST ASSIGNEE BY THE BUYER, SELLER WILL REDEMPT AND REPURCHASE THE WITHIN CONTRACT FOR CASH AT A PRICE EQUAL TO THE NET AMOUNT REMAINING DUE ON SAID CONTRACT, AND SELLER SHALL INDEMNIFY AND HOLD ASSIGNEE HARMLESS FROM ALL LIABILITIES THAT MAY RESULT AT ANY TIME FROM ANY CLAIM ASSERTED BY BUYER FOR RECOVERY OF AMOUNTS AND DEDUCTION OF ANY PROMISE, REPRESENTATION OR WARRANTY MADE BY MANUFACTURER TO BUYER.

Date: N/A

N/A

Seller

By:

Authorized Signature

IN ADDITION TO SELLER'S OBLIGATIONS SET FORTH IN THE ABOVE ASSIGNMENT, SELLER AGREES, IN THE EVENT THAT ASSIGNEE REPOSSESSES THE MOTOR VEHICLE DESCRIBED IN THE WITHIN CONTRACT, SELLER SHALL ON DEMAND REPURCHASE SAID MOTOR VEHICLE FOR CASH AT A PRICE EQUAL TO THE AMOUNT REMAINING DUE ON SAID CONTRACT. SELLER AGREES TO PAY ASSIGNEE, ON DEMAND, THE UNPAID BALANCE DUE ON SAID CONTRACT. SELLER AGREES THAT IT SHALL NOT BE NECESSARY FOR ASSIGNEE TO PROCEED FIRST AGAINST BUYER OR TO HAVE RECOURSE TO THE MOTOR VEHICLE REPOSSESSING EQUIPMENT. EXTENSION OF THE TIME OF PAYMENT OR VIOLATION OF TERMS EFFECTED BY ASSIGNEE WITH BUYER SHALL NOT RELEASE SELLER FROM HIS OBLIGATION HEREON.

Date: N/A

N/A

Seller

By:

Authorized Signature

IN ADDITION TO SELLER'S OBLIGATIONS SET FORTH IN THE ABOVE ASSIGNMENT, SELLER AGREES, IN THE EVENT THAT ASSIGNEE REPOSSESSES THE MOTOR VEHICLE DESCRIBED IN THE WITHIN CONTRACT, SELLER SHALL ON DEMAND REPURCHASE SAID MOTOR VEHICLE FOR CASH AT A PRICE EQUAL TO THE AMOUNT REMAINING DUE ON SAID CONTRACT. SELLER AGREES TO PAY ASSIGNEE, ON DEMAND, THE UNPAID BALANCE DUE ON SAID CONTRACT. SELLER AGREES THAT IT SHALL NOT BE NECESSARY FOR ASSIGNEE TO PROCEED FIRST AGAINST BUYER OR TO HAVE RECOURSE TO THE MOTOR VEHICLE REPOSSESSING EQUIPMENT. EXTENSION OF THE TIME OF PAYMENT OR VIOLATION OF TERMS EFFECTED BY ASSIGNEE WITH BUYER SHALL NOT RELEASE SELLER FROM HIS OBLIGATION HEREON.

Date: N/A

N/A

Seller

By:

Authorized Signature

IN ADDITION TO SELLER'S OBLIGATIONS SET FORTH IN THE ABOVE ASSIGNMENT, SELLER UNCONDITIONALLY GUARANTEES THAT, IN THE EVENT OF DEFAULT BY THE BUYER IN THE WITHIN CONTRACT, SELLER SHALL ON DEMAND REPURCHASE SAID MOTOR VEHICLE FOR CASH AT A PRICE EQUAL TO THE AMOUNT REMAINING DUE ON SAID CONTRACT. SELLER AGREES TO PAY ASSIGNEE, ON DEMAND, THE UNPAID BALANCE DUE ON SAID CONTRACT. SELLER AGREES THAT IT SHALL NOT BE NECESSARY FOR ASSIGNEE TO PROCEED FIRST AGAINST BUYER OR TO HAVE RECOURSE TO THE MOTOR VEHICLE REPOSSESSING EQUIPMENT. EXTENSION OF THE TIME OF PAYMENT OR VIOLATION OF TERMS EFFECTED BY ASSIGNEE WITH BUYER SHALL NOT RELEASE SELLER FROM HIS OBLIGATION HEREON.

Date: N/A

N/A

Seller

By:

Authorized Signature

INSTEAD OF THE SELLER'S OBLIGATIONS SET FORTH IN THE ABOVE ASSIGNMENT AND OTHER WRITTEN AGREEMENTS (REPOSSIBLE, FULL REPURCHASE, LIMITED REPURCHASE, AND CURRENT COVENANTS), SELLER AND ASSIGNEE HAVE ENTERED INTO A SEPARATE AGREEMENT MADE BETWEEN SELLER AND ASSIGNEE.

Date: N/A

N/A

Seller

By:

Authorized Signature

NO PUBLIC LIABILITY INSURANCE ISSUED WITH THIS TRANSACTION

Buyer Signature

Co-Buyer Signature

N/A

Signature of N/A FINANCIAL INC. (Company Name) (Not to be signed)

7870311 JHC-FI  
06/10/22

Signature of N/A FINANCIAL INC. (Company Name) (Not to be signed)  
07/22/2022 09:46 AM



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**EXHIBIT HI-8**

**TRAVELIN' TOM'S COFFEE FRANCHISE**

**LOAN AND SECURITY AGREEMENT - AUXILIOR CAPITAL PARTNERS**

Loan & Security Agreement #

**Borrower:**

Legal Name:	Fed TaxID #:		
Legal Address:	Phone Number:	Cell Number:	Fax Number:
Billing Address:	E-Mail Address:		
Send Invoice to Attention of:	Vendor Name:		

**Equipment**

Quantity	Year	Manufacturer	Model and Description	Serial Number

**Equipment Location:**

Address	City	State	Postal Code

**Transaction Terms/Payment Schedule:**

Principal Amount	Interest Rate	Term (in Months)	Advance Payment Amount	Documentation Fee

Number of Payments	Payment Frequency	Payment Amount

We have written this Loan & Security Agreement ("Loan" or "Loan Agreement") in plain language because we want you to understand its terms. Please read your copy of this Loan carefully and feel free to ask us any questions you may have. The words "you" and "your" mean the Borrower named above. The words "we", "us", and "our" refer to the Lender named below. THE TERMS OF THIS LOAN (INCLUDING THOSE ON THE FOLLOWING PAGES) SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. TERMS OR ORAL PROMISES WHICH ARE NOT CONTAINED IN THIS WRITTEN LOAN MAY NOT BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS LOAN ONLY BY ANOTHER WRITTEN AGREEMENT BETWEEN YOU AND US. YOU AGREE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS LOAN. THIS LOAN IS NOT CANCELABLE. YOU AGREE THAT THE PROCEEDS OF THE LOAN WILL BE USED FOR BUSINESS PURPOSES ONLY AND NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

YOU CERTIFY THAT ALL THE INFORMATION GIVEN IN THIS LOAN AND YOUR APPLICATION WAS CORRECT AND COMPLETE WHEN THIS LOAN WAS SIGNED. THIS LOAN IS NOT BINDING UPON US OR EFFECTIVE UNLESS AND UNTIL WE EXECUTE THIS LOAN. THIS LOAN AND ALL SCHEDULES WILL BE GOVERNED BY THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA. YOU SPECIFICALLY WAIVE ANY DEFENSE BASED UPON FORUM NON CONVENIENS AND YOU ADMIT THAT MONTGOMERY COUNTY, PENNSYLVANIA IS A CONVENIENT FORUM TO RESOLVE ALL DISPUTES UNDER THIS LOAN. ALL DISPUTES UNDER THIS LOAN SHALL BE RESOLVED IN THIS JURISDICTION AND VENUE OF FEDERAL COURT IN THE EASTERN DISTRICT OF PENNSYLVANIA OR STATE COURTS IN MONTGOMERY COUNTY, PENNSYLVANIA.

BY SIGNING THIS LOAN BELOW, YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS ON THE FOLLOWING PAGES. You agree to submit the original loan documents to Lender or its assignee via overnight courier. Should we fail to receive these originals, you agree to be bound by an electronic copy of this Loan with appropriate signatures on the document. Borrower waives the right to challenge in court the authenticity of an electronic copy of this Loan and the electronic copy shall be considered the original and shall be the binding agreement for the purposes of any enforcement action under paragraph 14.

Lender		Borrower	
Auxilior Capital Partners, Inc 620 West Germantown Pike, Suite 450 Plymouth Meeting, PA 19462			
Signature:	Date:	Signature:	Date:
Print Name:	Title:	Print Name:	Title:



**TOM'S**  
COFFEE

**TOM'S**  
COFFEE

400.538.333

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## HI-51

**2. USE, MAINTENANCE AND REPAIR.** You will primarily operate the Equipment as your individual self-hire, and will maintain the Equipment in accordance with the Equipment's maintenance manual. You will be responsible for the Equipment's condition and proper maintenance. You will keep the Equipment in the condition in which it was placed or repaired by the Equipment's manufacturer and not subject it to any abuse, misuse, neglect, accident or any other standard full-service maintenance contract. At your own cost and expense, you will keep the Equipment in good repair and in good working order and ready for use and for operation. All replacement parts and repairs will become your property. You will not make any permanent alterations to this Equipment.

**NY TAXES:** You agree to pay when due all taxes, fines and penalties relating to this Loan or the Equipment that are not or in the future assessed or imposed by any state, local or other governmental authority. We do not have any responsibility, fines, fees or penalties. If applicable, you will pay maintenance property taxes as indicated and all other taxes and charges, relating to the ownership, purchase, possession or use of the Equipment.

**W. INDEMNITY.** We are responsible for any injuries, damages, losses, claims or lawsuits, including legal expenses, incurred by you or any other person caused by the transportation, installation, selection, purchase, use, ownership, possession, modification, maintenance, condition, operation, use, removal, disposition of the Equipment. Damages to a structure is for and defer, we agree any claims for such losses, damages, claims, claims, injuries or expenses except caused by our gross negligence or willful misconduct. This indemnity continues even after the loan is repaid for any a contingency which occurred during the term.

4. UNCONDITIONAL OBLIGATION. YOU AGREE THAT YOU ARE  
BONDING YOURSELF OBLIGATED TO PAY ALL PAYMENTS AND ANY  
OF FE AMOUNTS DUE UNDER THIS LOAN AND THE FULL LOAN TERM.  
EVEN IF THE EQUIPMENT IS DAMAGED OR DESTROYED IF IT  
IS DEFECTIVE OR OTHERWISE TEMPORARILY OR PERMANENTLY  
LOST, YOU ARE SO ENTITLED TO RECEIVE OR BE CO-PAID  
PAYMENT OF OR AMOUNTS THE LOAN, THE LOAN TERM,  
REASON WHY SOLVE.

**11. LOSS OR DAMAGE.** You are responsible for any loss to the equipment from any cause at all, whether or not insured. If any loss to the equipment is not fully covered, you will promptly reimburse us for such an event. If an event occurs, you will notify the Equipment lessor of such event immediately by e-mailing or by faxing the Equipment lessor. If you are not insured, you will be responsible for the loss or damage to the equipment. If you are insured, you will forward to you your insurance company's claim, cover, loss, and/or damage, or damages from a loss or damage, which will apply only to the insurance policy's coverage for such a loss or damage to the equipment. You will not be liable for the loss or damage to the equipment.

[illegible]

**11. DEFAULT.** You will be deemed to have agreed to the following terms: You do not receive any payment or other payment due hereunder if: (a) you enter into a default prior notice form to you of such default is necessary, or (b) you or any of your guarantors becomes insolvent, or liquidated, dissolved, stopped in business, divided into two or more entities, or assigns rights or property for the benefit of creditors, or (c) an action is filed by or against you or any of your guarantors under any bankruptcy or insolvency or similar state or federal law, or under any law, or (d) you or any of your guarantors or any of your guarantors does not pay a guarantor appointed or claims reorganization you made in this Loan shall prove to be false or misleading in any material respect, or if any of your guarantors breach the covenants by not correctly pay the debt within 10 days after we send you notice of the default, (g) you default on any other agreement between you and us for our affiliates, (h) you make a default under any other material agreement between you and a third party or affiliate in an original or copy of a record of record, or if there has been a material adverse change in your business, financial condition, or other financial condition, or if you are in default of any of the covenants.

**10. REMEDIES** Upon the occurrence of a default by any of the parties, the non-defaulting party or parties shall be entitled to the following: (a) prompt written notice to you of default; (b) an estimated damages to you of a default; and (c) a demand for payment, within 30 days of the date of default; (d) any and all amounts actually paid or due and payable by you to or for another party to this Loan Agreement, plus (e) all Loan documents



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25. WAIVERS. I/WE AND YOU IRREVOCABLY WAIVE ANY AND ALL  
 26. ~~THE~~ EITHER OF US MAY HAVE TO A TRIAL BY JURY IN ANY ACTION  
 27. ~~PROCEEDING~~ IN CLAIM OF ANY NATURE RELATING TO HIS  
 28. AGREEMENT, ANY DOCUMENTS EXECUTED IN CONNECTION WITH  
 29. THIS AGREEMENT OR ANY TRANSFER, OR CONTAINED IN ANY OF  
 30. SUCH DOCUMENTS AND I/WE HEREBY AGREE THAT ANY

designated in the continental United States. The Equipment must be owned and operated exclusively for research, and a Foreign Business Fund must either (a) be the owner of the Equipment, or (b) be a majority-owned (but not wholly owned) subsidiary of the foreign party which must be licensed under the Export Administration Act and the Arms Export Control Act to export the equipment to the United States for the purpose of conducting research. The equipment must be used for the purpose of conducting research, and the equipment must be used for the purpose of conducting research.

**34. USA PATRIOT ACT NOTICE** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each customer that opens an account. What this means: When you open an account, we will ask for your name, address, date of birth, and other information. We will not share this information with any other company except to the extent necessary to complete our business transactions with you.

**17. CHANGE IN BUSINESS, MANAGEMENT OR OWNERSHIP.** Your covenant and those that from the date of this Loan Agreement and all of the obligations hereunder shall in full and all of the commitments hereunder, you will not, without our prior written consent, do any or some of the following: (i) you, four or more persons, (ii) the majority of your business, (iii) any change in the ownership, (iv) the composition of your current executive management, (v) your equity ownership, or (vi) the sale or transfer of stock, will not in fact, in any manner resulting from you, division, merger or change in all or a substantial portion of your stock of assets.

25. **ANTI-MONEY LAUNDERING/INTERNATIONAL TRADE LAW COMPLIANCE.** You, Applicant and we, as ac, as of the date of this Loan Agreement, the date of each advance of proceeds under the Loan, the date of any renewal, extension or modification of this Loan Agreement and, at all times under the Loan, we have implemented any applicable law under 1996, any enforceable rule in full text set of laws and applicable law in connection

29. ASSIGNMENT: YOU WILL NOT SELL, TRANSFER (INCLUDING WITHOUT LIMITATION, ANY TRANSFER RESULTING FROM YOUR OBLIGATION) AND/OR MORE ENTAILS, ASSIGN, PLEDGE, LEASE, PART WITH POSSESSION OF THIS EQUIPMENT, OR FILE, OR PERMIT A LIEN TO BE FILED AGAINST THE EQUIPMENT. We agree, without unduly burdening you, to assist, or assist its agent and our attorneys in the U.S. to protect you.

## TERMS AND CONDITIONS

Compliance Event. As used herein: **"Anti-Terrorism laws"** means any laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering or bribery, all as amended, supplemented or replaced from time to time; **"Compliance Authority"** means each and all of the (a) U.S. Treasury Department/Office of Foreign Assets Control, (b) U.S. Treasury Department/Financial Crimes enforcement Network, (c) U.S. State Department/Directorate of Defense Trade Controls, (d) U.S. Commerce Department/Bureau of Industry and Security, (e) U.S. Internal Revenue Service, (f) U.S. Justice Department, and (g) U.S. Securities and Exchange Commission; **"Covered Entity"** means you, your affiliates and subsidiaries, all guarantors, pledgors of collateral, all owners of the foregoing, and all of your brokers or other agents acting in any capacity in connection with this Loan; **"Reportable Compliance Event"** means that any Covered Entity becomes a Sanctioned Person, or is indicted, arraigned, investigated or custodially detained, or receives an inquiry from regulatory or law enforcement officials, in connection with any anti-terrorism law or any predicate crime to any Anti-Terrorism law, or self-discovers facts or circumstances implicating any aspect of its operations with the actual or possible violation of any Anti-Terrorism Law; **"Sanctioned Country"** means a country subject to a sanctions program maintained by any Compliance Authority; and **"Sanctioned Person"** means any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person or entity, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any order or directive of any Compliance authority otherwise subject to, or specially designated under, any sanctions program maintained by any Compliance Authority.

**26. BENEFICIAL OWNERS.** If applicable, you agree to deliver certification(s) of beneficial owners in the form requested by us (as executed and delivered to us on or prior to the date of this Loan Agreement and updated from time to time, the **"Certification of Beneficial Owners"**). You represent and warrant (which shall be continuing in nature and remain in full force and effect until all of the obligations are paid in full) that the information in the Certification of Beneficial Owners executed and delivered to us on or prior to the date of this Loan Agreement (if applicable), as updated from time to time in accordance with this Loan Agreement, is true, complete and correct as of the date hereof and as of the date any such update is delivered. You acknowledge and agree that the Certification of Beneficial Owners (if applicable) is a Loan document. You agree that from the date of execution of this Loan Agreement until all of the obligations have been paid in full and all of our commitments have been terminated, you will provide (i) confirmation of the accuracy of the information set forth in the most recent Certification of Beneficial Owners provided to us (if applicable), as and when requested by us, (ii) if applicable, a new Certification of Beneficial Owners in form and substance acceptable to us when the individual(s) identified as a controlling party and/or a direct or indirect individual owner on the most recent Certification of Beneficial Owners provided to us have changed, and (iii) such other information and documentation as may reasonably be required by us from time to time for purposes of compliance by us with applicable laws (including without limitation the USA PATRIOT Act and other "know your customer" and anti-money laundering rules and regulations), and any policy or procedure implemented by us to comply therewith.



Loan & Security Agreement #

Borrower:			
Legal Name:		Fed TaxID #:	
Legal Address:		Phone Number:	Cell Number: Fax Number:
Billing Address:		E-Mail Address:	
Send Invoice to Attention of:		Vendor Name:	

Equipment				
Quantity	Year	Manufacturer	Model and Description	Serial Number

Equipment Location:			
Address	City	State	Postal Code

Transaction Terms/Payment Schedule:				
Principal Amount	Interest Rate	Term (in Months)	Advance Payment Amount	Documentation Fee
Number of Payments		Payment Frequency	Payment Amount	

We have written this Loan & Security Agreement ("Loan" or "Loan Agreement") in plain language because we want you to understand its terms. Please read your copy of this Loan carefully and feel free to ask us any questions you may have. The words "you" and "your" mean the Borrower named above. The words "we", "us", and "our" refer to the Lender named below. THE TERMS OF THIS LOAN (INCLUDING THOSE ON THE FOLLOWING PAGES) SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. TERMS OR ORAL PROMISES WHICH ARE NOT CONTAINED IN THIS WRITTEN LOAN MAY NOT BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS LOAN ONLY BY ANOTHER WRITTEN AGREEMENT BETWEEN YOU AND US. YOU AGREE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS LOAN. THIS LOAN IS NOT CANCELABLE. YOU AGREE THAT THE PROCEEDS OF THE LOAN WILL BE USED FOR BUSINESS PURPOSES ONLY AND NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

YOU CERTIFY THAT ALL THE INFORMATION GIVEN IN THIS LOAN AND YOUR APPLICATION WAS CORRECT AND COMPLETE WHEN THIS LOAN WAS SIGNED. THIS LOAN IS NOT BINDING UPON US OR EFFECTIVE UNLESS AND UNTIL WE EXECUTE THIS LOAN. THIS LOAN AND ALL SCHEDULES WILL BE GOVERNED BY THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA. YOU SPECIFICALLY WAIVE ANY DEFENSE BASED UPON FORUM NON CONVENIENS AND YOU ADMIT THAT MONTGOMERY COUNTY, PENNSYLVANIA IS A CONVENIENT FORUM TO RESOLVE ALL DISPUTES UNDER THIS LOAN. ALL DISPUTES UNDER THIS LOAN SHALL BE RESOLVED IN THIS JURISDICTION AND VENUE OF FEDERAL COURT IN THE EASTERN DISTRICT OF PENNSYLVANIA OR STATE COURTS IN MONTGOMERY COUNTY, PENNSYLVANIA.

BY SIGNING THIS LOAN BELOW, YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS ON THE FOLLOWING PAGES. You agree to submit the original loan documents to Lender or its assignee via overnight courier. Should we fail to receive these originals, you agree to be bound by an electronic copy of this Loan with appropriate signatures on the document. Borrower waives the right to challenge in court the authenticity of an electronic copy of this Loan and the electronic copy shall be considered the original and shall be the binding agreement for the purposes of any enforcement action under paragraph 14.

Lender		Borrower	
Auxilior Capital Partners, Inc 620 West Germantown Pike, Suite 450 Plymouth Meeting, PA 19462			
Signature:	Date:	Signature:	Date:
Print Name:	Title:	Print Name:	Title:



## TERMS AND CONDITIONS

**1. LOAN.** For Value received, the Borrower hereby unconditionally promises to pay to the order of Lender the amounts described above (the "Loan Payments"). In the event we become aware of adverse credit information about you and/or the Guarantor(s) after you signed this Loan and prior to our acceptance of this Loan, we may at our sole discretion, cancel this Loan. **ONCE WE ACCEPT THIS LOAN, YOU MAY NOT CANCEL IT DURING THE FULL LOAN TERM.** You agree to be bound by all the terms of this Loan from the date you execute this Loan ("Effective Date") until you have paid the Loan in full.

**2. DELIVERY, ACCEPTANCE OF EQUIPMENT AND COMMENCEMENT OF THE LOAN.** Borrower hereby certifies to Lender that the Equipment has been duly ordered, an invoice for the Equipment has been issued and the Equipment will be delivered to the location where it will be used. Borrower acknowledges that signature of this document confirms that Equipment will be properly installed and in good working order and constitutes an unconditional acceptance of the Equipment upon delivery and hereby authorized the commencement of the Loan ("Commencement Date").

**3. PAYMENT.** You agree to pay us the Loan Payments when each payment is due. If we designate the Loan Payments to begin later than the Commencement Date, you will pay interim interest on the Principal Amount from the Commencement Date until the first Loan Payment due date. Interim interest shall be equal to the pro rata portion of the daily equivalent of the Loan interest rate. Payment is due whether or not you receive an invoice from us. You authorize us to change the payment by not more than 15% due to changes in the Equipment configuration accepted by you which may occur prior to our acceptance of this Loan. Restrictive endorsements on checks you send to us will not reduce your obligations to us. For any payment which is not received by its due date, you agree to pay a late charge equal to the higher of 10% of the amount due or \$25.00 (not to exceed the maximum amount permitted by law), as reasonable collection costs. You will be permitted to prepay your Loan if they simultaneously pay a premium as follows: for each year or partial year remaining: (A) 3% in year one of the Loan; (B) 2% in year two of Loan; and (C) 1% in year three of the Loan; provided, that there will be no premium thereafter.

**4. UNCONDITIONAL OBLIGATION.** YOU AGREE THAT YOU ARE UNCONDITIONALLY OBLIGATED TO PAY ALL PAYMENTS AND ANY OTHER AMOUNTS DUE UNDER THIS LOAN FOR THE FULL LOAN TERM EVEN IF THE EQUIPMENT IS DAMAGED OR DESTROYED, IF IT IS DEFECTIVE OR YOU HAVE TEMPORARY OR PERMANENT LOSS OF ITS USE. YOU ARE NOT ENTITLED TO REDUCE OR SET-OFF AGAINST PAYMENT OR OTHER AMOUNTS DUE UNDER THIS LOAN FOR ANY REASON WHATSOEVER.

**5. DISCLAIMER OF WARRANTIES.** THE EQUIPMENT IS BEING USED BY YOU IN AS-IS CONDITION. NO INDIVIDUAL IS AUTHORIZED TO CHANGE ANY PROVISION OF THIS LOAN. YOU AGREE THAT WE HAVE NOT MANUFACTURED THE EQUIPMENT OR LICENSED THE EQUIPMENT AND THAT YOU HAVE SELECTED THE EQUIPMENT BASED UPON YOUR OWN JUDGMENT. YOU HAVE NOT RELIED ON ANY STATEMENTS WE OR OUR EMPLOYEES HAVE MADE. WE HAVE NOT MADE AND DO NOT MAKE ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE EQUIPMENT MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, DESIGN, CONDITION, DURABILITY, OPERATION, QUALITY OF MATERIALS OR WORKMANSHIP, OR COMPLIANCE WITH SPECIFICATIONS OR APPLICABLE LAW. You are aware of the name of the Equipment manufacturer. You agree to contact the manufacturer for a description of your warranty rights. Provided you are not in default under this Loan, you may enforce all warranty rights directly against the manufacturer of this Equipment. You agree to settle any dispute you may have regarding performance of the Equipment directly with the manufacturer of the Equipment.

**6. SECURITY INTEREST.** To secure all of your obligations to us under this Loan you hereby grant us a security interest in (a) the Equipment to the extent of your interests in the Equipment and any substitutions and replacements thereof, (b) anything attached or added to the Equipment at any time (c) any money or property from the sale of the Equipment, and (d) any money from an insurance claim if the Equipment is lost or damaged. You agree that the security interest will not be affected if this Loan is changed in any way. As required, you agree, at your own expense to register the Equipment to you at your address set forth above and to title the Equipment to you, showing us as secured party or lien holder. You hereby irrevocably authorize us at any time and from time to time to file in any Uniform Commercial Code jurisdiction of any financing statements and amendments thereto. This Loan may be executed in counterparts, and electronic signatures shall suffice as originals.

**7. USE, MAINTENANCE AND REPAIR.** You will primarily garage the Equipment at your address set forth above, and not remove the Equipment therefrom or re-title the Equipment without our prior written consent. You will give us reasonable access to the Equipment Location so that we can check the Equipment's existence, condition and proper maintenance. You will use the Equipment in the manner in which it was intended, as required by all applicable manuals and instructions and keep it eligible for any manufacturer's certification and/or standard, full-service maintenance contract. At your own cost and expense, you will keep the Equipment in good repair, condition and working order ordinary wear and tear expected. All replacement parts and repairs will become our property. You will not make any permanent alterations to the Equipment.

**8. TAXES.** You agree to pay when due, all taxes, fines, and penalties relating to this Loan or the Equipment that are now or in the future assessed or levied by any state, local or other government authority. We do not have to contest any taxes, fines or penalties. If required, you will pay estimated property taxes as invoiced and all other taxes and charges, relating to the ownership purchase, possession or use of the Equipment.

**9. INDEMNITY.** We are not responsible for any injuries, damages, penalties, claims or losses, including legal expenses, incurred by you or any other person caused by the transportation, installation, selection, purchase, loan, ownership, possession, modification, maintenance, condition, operations, use, return or disposition of the Equipment. You agree to reimburse us for and defend us against any claims for such losses, damages, penalties, claims, injuries, or expenses except caused by our gross negligence or willful misconduct. This indemnity continues even after the Loan as expired for acts or omissions which occurred during the Term.

**10. IDENTIFICATION.** You authorize us to insert or correct missing information on this Loan, including your official name, serial numbers, and any other information describing the Equipment. We will send you copies of the changes. You will attach to the Equipment any name plates or stickers we provide you.

**11. LOSS OR DAMAGE.** You are responsible for any loss of the Equipment from any cause at all, whether or not insured. If any item of the Equipment is lost, stolen or damaged, you will promptly notify us of such an event. Then, at our option, you will repair the Equipment so that it is in good condition and working order. If you have satisfied your obligations under this Section 11 and you are not in default, we will forward to you any insurance proceeds which we receive for such lost, damaged, or destroyed item. If you are in default, we will apply any insurance proceeds we receive to reduce your obligations under Section 14 of this Loan.

**12. INSURANCE.** During the term of a Loan, you will keep the Equipment insured, at your sole cost and expense, against all risks of a loss or damage in an amount not less than the replacement cost of the Equipment showing us as loss payee as our interests may appear. You will also obtain and maintain for the term of a Loan, comprehensive public liability insurance in the amount of \$2,000,000 showing us as additional insured. You will pay all premiums for such insurance. If you do not provide such insurance, you agree that we have the right, but not the obligation, to obtain such insurance and charge you for all costs. You irrevocably appoint us as your attorney-in-fact to make claims for, receive payment of, and execute and endorse all documents, checks or drafts in payment for loss or damage under any said insurance policies.

**13. DEFAULT.** You will be in default under this Loan if any of the following happens: (a) we do not receive any payment or other payment due hereunder 10 days after its due date (no prior notice from us to you of such default is necessary), or (b) you or any of your guarantors become insolvent, are liquidated, dissolve, stop doing business, divide into two or more entities, or assign rights or property for the benefit of creditors, or (c) a petition is filed by or against you or any of your guarantors under any bankruptcy or insolvency law which remains undismissed or undischarged for sixty (60) days, or (d) (for individuals) you or any of your guarantors die, or have a guardian appointed, or (e) any representation you have made in this Loan shall prove to be false or misleading in any material respect, or (f) any of your guarantors breach their guaranty by not correcting the default within 10 days after we send you written notice of the default, (g) you default on any other agreement between you and us (or our affiliates), (h) you default under any other material agreement between you and a third party or affiliate in an original amount in excess of \$50,000, or (i) if there has been a material adverse change in your business, assets, operations, condition (financial or otherwise) or results of operations.

**14. REMEDIES.** Upon the occurrence of default, we may, in our sole discretion, do any or all of the following: (a) provide written notice to you of default, (b) as liquidated damages for loss of a bargain and not as a penalty, declare due and payable (i) any and all amounts which may be then due and payable by you to us under this Loan Agreement, plus (ii) all Loan payments



## TERMS AND CONDITIONS

remaining through the end of the Loan Agreement term, discounted at the higher of 3% or the lowest rate allowed by law. We have the right to appoint a receiver or to require you to make the Equipment available to us for repossession during reasonable business hours or we may repossess the Equipment, so long as we do not breach the peace in doing so, or we may use legal process in compliance with applicable law pursuant to court order to have the Equipment repossessed. You will not make any claims against us or the Equipment for trespass, damage or any other reason. If we take possession of the Equipment, we may (a) sell or lease the Equipment at public or private sale or lease, and/or (b) exercise such other rights as may be allowed by applicable law. Although you agree that we have no obligation to sell the Equipment, if we do sell the Equipment, we will apply any proceeds we receive to reduce your obligations under this Section 14 and any surplus remaining shall be returned to you. You agree (a) that we only need to give you 10 days advance notice of any sale and no notice of advertising, (b) to pay all of the costs we reasonably incur to enforce our rights against you including attorney's fees, and (c) that we will retain all of our rights against you even if we do not choose to enforce them at the time of your default. You further agree this Loan is cross-collateralized with any loan or other obligation between you and your affiliates and us (the "Other Obligations"). Accordingly, you agree that any default as stated in this Loan or under the Other Obligations shall also be a default under the non-defaulted obligation. We shall be entitled to exercise all rights and remedies available to us, including without limitation, the right to foreclose on and sell any Equipment subject to this Loan or the Other Obligations and apply the proceeds to the Loan or Other Obligations in our discretion. For so long as any obligations and liabilities remain outstanding with respect to the Loan and Other Obligations all security interests granted under the Loan and Other Obligations shall remain in full force and effect as security for your obligations and shall not be released until all obligations and liabilities under the Loan and Other Obligations have been fully paid and discharged. These remedies are cumulative, and in addition to any other remedies provided for by law and may be exercised concurrently or separately. Any failure or delay by us to exercise any right shall not operate as a waiver of any other right or future right.

**15. RETURN OF EQUIPMENT.** If (a) a default occurs and continues, you will immediately return the Equipment, manuals and accessories to any location(s) and aboard any carrier(s) with prepaid freight and insurance as we may designate in the continental United States. The Equipment must be maintained in accordance with Section 7, and in "Average Saleable Condition" which means that all of the Equipment is immediately available for us by a third party buyer, user or borrower, other than yourself, without the need for any repair or refurbishment. You will pay us for any missing or defective parts or accessories.

**16. YOUR REPRESENTATIONS.** You state for our benefit that as of the date of this Loan (a) you have the lawful power and authority to enter into this Loan, (b) the individuals signing this Loan have been duly authorized to do so on your behalf, (c) by entering into this Loan you will not violate and law or other agreement to which you are a party, (d) you are not aware of anything that will have a material negative effect on your ability to satisfy your obligations under this Loan, and (e) all financial information you have provided us is true and accurate in all material respects and provides a good representation of your financial condition.

**17. CHANGE IN BUSINESS, MANAGEMENT OR OWNERSHIP.** You covenant and agree that from the date of this Loan Agreement until all of the obligations have been paid in full and all of our commitments have been terminated, you will not, without our prior written consent (a) make or permit any change in (i) your form or organization, (ii) the nature of your business as carried on as of the date hereof, (iii) the composition of your current executive management, or (iv) your equity ownership, or (b) merge or transfer (including, without limitation, any transfer resulting from your division into two or more entities) all or substantially all of your stock or assets.

**18. YOUR PROMISES.** In addition to the other provisions of this Loan, you agree that during the term of this Loan (a) you will promptly notify us in writing if you move your principal place of business, or if you change the name of your business, (b) you will provide to us such financial information as we may reasonably request from time-to-time, and (c) you will take any action we reasonably request to protect our rights to the Equipment and to meet your obligations under this Loan.

**19. ASSIGNMENT.** YOU WILL NOT SELL, TRANSFER (INCLUDING WITHOUT LIMITATION, ANY TRANSFER RESULTING FROM YOUR DIVISION INTO TWO OR MORE ENTITIES), ASSIGN, PLEDGE, LEND OR PART WITH POSSESSION OF THIS EQUIPMENT, OR FILE, OR PERMIT A LIEN TO BE FILED AGAINST THE EQUIPMENT. We may, without notifying you, sell, assign, or transfer this Loan and our interests in the Equipment. You

agree that if we do so, the new owner (and any subsequent owners) will have the same rights and benefits that we now have, but will not have to perform any of our obligations. You agree that the rights of the new owner will not be subject to any claims, defenses, or set-offs that you may have against us. Any such assignment, sale, or transfer of this Loan or Equipment will not relieve us of any obligations we may have to you under this Loan. If you are given notice of a new owner of this Loan, you agree to respond to any requests about this Loan and, if directed by us, to pay the new owner all payments and other amounts due under this Loan.

**20. COLLECTION EXPENSES, OVERDUE PAYMENT, TERMINATION.** You agree that we can, but do not have to, take on your behalf any action which you fail to take as required by this Loan, and our expenses will be in addition to of the payment which you owe us. To the extent allowed by law, any late payment or non-payment of any past due amount will accrue in the lower of 18% per annum or the highest legal rate from the due date until paid. At the end of the Loan Term you shall pay us a Loan termination fee of \$150.00.

**21. MISCELLANEOUS.** This Loan contains our entire agreement and supersedes any conflicting provision of any equipment purchase order or any other agreement. TIME IS OF THE ESSENCE IN THIS LOAN. If a court finds any provision of this Loan to be unenforceable, the remaining terms of this Loan shall remain in effect. You authorize us (or our agent) to (a) obtain credit reports, (b) make such other credit inquiries as we may deem necessary and (c) furnish payment history information to payment reporting agencies. To the extent permitted by law, we may charge a fee to cover our documentation and investigation costs.

**22. NOTICES.** All of your written notices to us must be certified mail or recognized overnight delivery service, postage prepaid, to us at our address stated in this Loan, or by facsimile transmission. All of our notices to you may be sent first class mail, postage prepaid, to your address stated in this Loan. At any time after this Loan is signed, you or we may change an address or facsimile telephone number by giving notice to the other of the change.

**23. WAIVERS.** WE AND YOU IRREVOCABLY WAIVE ANY AND ALL RIGHT EITHER OF US MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE RELATING TO THIS AGREEMENT, ANY DOCUMENTS EXECUTED IN CONNECTION WITH THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED IN ANY OF SUCH DOCUMENTS. YOU IRREVOCABLY AGREE THAT ANY ARBITRATION, JUDICIAL REFERENCE OR TRIAL BY A JUDGE OF ANY DISPUTE WILL TAKE PLACE ON AN INDIVIDUAL BASIS WITHOUT RESORT TO ANY FORM OF CLASS OR REPRESENTATIVE ACTION. WE AND YOU ACKNOWLEDGE THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY. We will not be liable for specific performance of this Loan for any losses, damages, delay or failure to deliver the Equipment.

**24. USA PATRIOT ACT NOTICE.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each Borrower that opens an account. What this means: when you open an account, we will ask for the business name, business address, taxpayer identifying number and other information or documentation that will allow us to identify you, such as organizational documents. For some businesses and organizations, we may also need to ask for identifying information and documentation relating to certain individuals associated with the business or organization.

**25. ANTI-MONEY LAUNDERING/INTERNATIONAL TRADE LAW COMPLIANCE.** You represent and warrant to us, as of the date of this Loan Agreement, the date of each advance of proceeds under the Loan, the date of any renewal, extension or modification of this Loan Agreement, and at all times until the Loan has been terminated and all amounts thereunder have been indefeasibly paid in full, that (a) no Covered Entity (i) is a Sanctioned Person; (ii) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person; or (iii) does business in or with, or derives any of its operating income from investments in or transaction with, any Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority; (b) the proceeds of the Loan will not be used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority; (c) the funds used to repay the Loan are not derived from any unlawful activity; and (d) each Covered Entity is in compliance with, and no Covered Entity engages in any dealings or transactions prohibited by, any laws of the United States, including but not limited to any anti-Terrorism Laws. You covenant and agree that you shall immediately notify us in writing upon the occurrence of a Reportable



## TERMS AND CONDITIONS

Compliance Event. As used herein: **"Anti-Terrorism laws"** means any laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering or bribery, all as amended, supplemented or replaced from time to time; **"Compliance Authority"** means each and all of the (a) U.S. Treasury Department/Office of Foreign Assets Control, (b) U.S. Treasury Department/Financial Crimes enforcement Network, (c) U.S. State Department/Directorate of Defense Trade Controls, (d) U.S. Commerce Department/Bureau of Industry and Security, (e) U.S. Internal Revenue Service, (f) U.S. Justice Department, and (g) U.S. Securities and Exchange Commission; **"Covered Entity"** means you, your affiliates and subsidiaries, all guarantors, pledgors of collateral, all owners of the foregoing, and all of your brokers or other agents acting in any capacity in connection with this Loan; **"Reportable Compliance Event"** means that any Covered Entity becomes a Sanctioned Person, or is indicted, arraigned, investigated or custodially detained, or receives an inquiry from regulatory or law enforcement officials, in connection with any anti-terrorism law or any predicate crime to any Anti-Terrorism law, or self-discovers facts or circumstances implicating any aspect of its operations with the actual or possible violation of any Anti-Terrorism Law; **"Sanctioned Country"** means a country subject to a sanctions program maintained by any Compliance Authority; and **"Sanctioned Person"** means any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person or entity, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any order or directive of any Compliance authority otherwise subject to, or specially designated under, any sanctions program maintained by any Compliance Authority.

**26. BENEFICIAL OWNERS** If applicable, you agree to deliver certification(s) of beneficial owners in the form requested by us (as executed and delivered to us on or prior to the date of this Loan Agreement and updated from time to time, the **"Certification of Beneficial Owners"**). You represent and warrant (which shall be continuing in nature and remain in full force and effect until all of the obligations are paid in full) that the information in the Certification of Beneficial Owners executed and delivered to us on or prior to the date of this Loan Agreement (if applicable), as updated from time to time in accordance with this Loan Agreement, is true, complete and correct as of the date hereof and as of the date any such update is delivered. You acknowledge and agree that the Certification of Beneficial Owners (if applicable) is a Loan document. You agree that from the date of execution of this Loan Agreement until all of the obligations have been paid in full and all of our commitments have been terminated, you will provide (i) confirmation of the accuracy of the information set forth in the most recent Certification of Beneficial Owners provided to us (if applicable), as and when requested by us, (ii) if applicable, a new Certification of Beneficial Owners in form and substance acceptable to us when the individual(s) identified as a controlling party and/or a direct or indirect individual owner on the most recent Certification of Beneficial Owners provided to us have changed, and (iii) such other information and documentation as may reasonably be required by us from time to time for purposes of compliance by us with applicable laws (including without limitation the USA PATRIOT Act and other "know your customer" and anti-money laundering rules and regulations), and any policy or procedure implemented by us to comply therewith.

**EXHIBIT HI-9**

**TRAVELIN' TOM'S COFFEE FRANCHISE**

**PROMISSORY NOTE AND SECURITY AGREEMENT – OSGOOD BANK**



LOAN NUMBER	LOAN NAME	ACCT. NUMBER	NOTE DATE	INITIALS
IES1KONA	John Doe		01/31/22	SLOBU
NOTE AMOUNT	INDEX (w/Margin)	RATE	MATURITY DATE	LOAN PURPOSE
\$120,200.00	Not Applicable	6.000%	03/01/27	Commercial
Creditor Use Only				

## PROMISSORY NOTE (Commercial - Single Advance)

DATE AND PARTIES. The date of this Promissory Note (Note) is January 31, 2022. The parties and their addresses are:

**LENDER:**

OSGOOD BANK  
275 W Main Street  
PO Box 60  
Osgood, OH 45351  
Telephone: (419) 582-2681

**BORROWER:**

JOHN DOE  
123 Anywhere Street  
El Dorado, OH 45845

**1. DEFINITIONS.** As used in this Note, the terms have the following meanings:

- A. **Pronouns.** The pronouns "I," "me," and "my" refer to each Borrower signing this Note and each other person or legal entity (including guarantors, endorser, and sureties) who agrees to pay this Note. "You" and "Your" refer to the Lender, any participants or syndicators, successors and assigns, or any person or company that acquires an interest in the Loan.
- B. **Note.** Note refers to this document, and any extensions, renewals, modifications and substitutions of this Note.
- C. **Loan.** Loan refers to this transaction generally, including obligations and duties arising from the terms of all documents prepared or submitted for this transaction such as applications, security agreements, disclosures or notes, and this Note.
- D. **Loan Documents.** Loan Documents refer to all the documents executed as a part of or in connection with the Loan.
- E. **Property.** Property is any property, real, personal or intangible, that secures my performance of the obligations of this Loan.
- F. **Percent.** Rates and rate change limitations are expressed as annualized percentages.
- G. **Dollar Amounts.** All dollar amounts will be payable in lawful money of the United States of America.

**2. PROMISE TO PAY.** For value received, I promise to pay you or your order, at your address, or at such other location as you may designate, the principal sum of \$120,200.00 (Principal) plus interest from January 31, 2022 on the unpaid Principal balance until this Note matures or this obligation is accelerated.

**3. INTEREST.** Interest will accrue on the unpaid Principal balance of this Note at the rate of 6.000 percent (Interest Rate).

A. **Post-Maturity Interest.** After maturity or acceleration, interest will accrue on the unpaid Principal balance of this Note at 18.000 percent until paid in full.

B. **Maximum Interest Amount.** Any amount assessed or collected as interest under the terms of this Note will be limited to the maximum dollar amount of interest allowed by applicable law. Amounts collected in excess of the maximum lawful amount will be applied first to the unpaid Principal balance. Any remainder will be refunded to me.

C. **Accrual.** Interest accrues using an Actual/365 days counting method.

**4. ADDITIONAL CHARGES.** As additional consideration, I agree to pay, or have paid, these additional fees and charges.

A. **Nonrefundable Fees and Charges.** The following fees are earned when collected and will not be refunded if I prepay this Note before the scheduled maturity date.

Loan. A(n) Loan fee of \$200.00 payable from the loan proceeds.

**5. REMEDIAL CHARGES.** In addition to interest or other finance charges, I agree that I will pay these additional fees based on my method and pattern of payment. Additional remedial charges may be described elsewhere in this Note.

A. **Late Charge.** If a payment is more than 10 days late, I will be charged 10.000 percent of the Amount of Payment or \$10.00, whichever is greater. However, this charge will not be greater than \$100.00. I will pay this late charge promptly but only once for each late payment.

B. **Returned Payment Charge.** I agree to pay a fee not to exceed \$28.00 for each check, electronic payment, negotiable order of withdrawal or draft I issue in connection with the Loan that is returned because it has been dishonored.

C. **Stop Payment Fee.** A(n) Stop Payment Fee equal to \$28.00.

**6. PAYMENT.** I agree to pay this Note on demand, but if no demand is made, I will make 9 payment(s) of Principal and Interest in the amount of \$3,000.00 beginning March 1, 2022 and on the 1st day of each month thereafter. I will make 3 payment(s) of Principal and Interest in the amount of \$100.00 beginning December 1, 2022 and on the 1st day of each month thereafter. I will make 9 payment(s) of Principal and Interest in the amount of \$3,000.00 beginning March 1, 2023 and on the 1st day of each month thereafter. I will make 3 payment(s) of Principal and Interest in the amount of \$100.00 beginning December 1, 2023 and on the 1st day of each month thereafter. I will make 9 payment(s) of Principal and Interest in the amount of \$3,000.00 beginning March 1, 2024 and on the 1st day of each month thereafter. I will make 3 payment(s) of Principal and Interest in the amount of \$100.00 beginning December 1, 2024 and on the 1st day of each month thereafter. I will make 9 payment(s) of Principal and Interest in the amount of \$3,000.00 beginning March 1, 2025 and on the 1st day of each month thereafter. I will make 3 payment(s) of Principal and Interest in the amount of \$100.00 beginning December 1, 2025 and on the 1st day of each month thereafter. I will make 9 payment(s) of Principal and Interest in the amount of \$3,000.00 beginning March 1, 2026 and on the 1st day of each month thereafter. I will make 3 payment(s) of Principal and Interest in the amount of \$100.00 beginning December 1, 2026 and on the 1st day of each month thereafter. I will make 1 payment(s) of Principal and Interest in the amount of \$2,353.76 on March 1, 2027.

Payments will be rounded to the nearest \$0.01. With the final payment, I also agree to pay any additional fees or charges owing and the amount of any advances you have made to others on my behalf. Payments scheduled to be paid on the 29th, 30th or 31st day of a month that contains no such day will, instead, be made on the last day of such month.

Interest only payments will be applied first to any charges I owe other than late charges, then to accrued, but unpaid interest, then to late charges. Principal only payments will be applied first to the amount of the scheduled Principal payment, then to any late charges.

Payments of Principal and interest will be applied first to interest that is due, then to principal that is due, then to escrow that is due, and finally to late charges that are due. If you and I agree to a different application of payments, we will describe our agreement on this Note. You may change how payments are applied in your sole discretion without notice to me. The actual amount of my final payment will depend on my payment record.

**7. PREPAYMENT.** I may prepay this Loan under the following terms and conditions. A prepayment penalty of 2% of the original principal balance will be assessed if the note is paid in full during the first 24 months. Any partial prepayment will not excuse any later scheduled payments until I pay in full.

**8. LOAN PURPOSE.** The purpose of this Loan is Purchase Kona Entertainment Vehicle.

**9. ADDITIONAL TERMS.** Borrower to provide tax returns to Osgood State Bank within 120 days after end of fiscal year. Personal Guarantors to provide annual financial statements to Osgood State Bank within 120 days after end of calendar year.

**10. SECURITY.** The Loan is secured by separate security instruments prepared together with this Note as follows:

John Doe  
Ohio Promissory Note  
OH/4XXXHOLLY00000000002299017013122N

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Initials  
Page 1



Document Name  
Security Agreement - John Doe

Parties to Document  
John Doe

Date of Security Document  
March 1, 2022

11. **LIMITATIONS ON CROSS-COLLATERALIZATION.** The cross-collateralization clause on any existing or future loan, but not including this Loan, is void and ineffective as to this Loan, including any extension or refinancing.

12. **DEFAULT.** I understand that you may demand payment anytime at your discretion. For example, you may demand payment in full if any of the following events (known separately and collectively as an Event of Default) occur:

- A. **Payments.** I fail to make a payment in full when due.
- B. **Insolvency or Bankruptcy.** The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me or any co-signer, endorser, surety or guarantor of this Note or any other obligations I have with you.
- C. **Death or Incompetency.** I die or am declared legally incompetent.
- D. **Failure to Perform.** I fail to perform any condition or to keep any promise or covenant of this Note.
- E. **Other Documents.** A default occurs under the terms of any other Loan Document.
- F. **Other Agreements.** I am in default on any other debt or agreement I have with you.
- G. **Misrepresentation.** I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.
- H. **Judgment.** I fail to satisfy or appeal any judgment against me.
- I. **Forfeiture.** The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- J. **Name Change.** I change my name or assume an additional name without notifying you before making such a change.
- K. **Property Transfer.** I transfer all or a substantial part of my money or property.
- L. **Property Value.** You determine in good faith that the value of the Property has declined or is impaired.
- M. **Insecurity.** You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Note or that the prospect for payment or performance of the Loan is impaired for any reason.

13. **DUE ON SALE OR ENCUMBRANCE.** You may, at your option, declare the entire balance of this Note to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law, as applicable.

14. **WAIVERS AND CONSENT.** To the extent not prohibited by law, I waive protest, presentment for payment, demand, notice of acceleration, notice of intent to accelerate and notice of dishonor.

A. **Additional Waivers By Borrower.** In addition, I, and any party to this Note and Loan, to the extent permitted by law, consent to certain actions you may take, and generally waive defenses that may be available based on these actions or based on the status of a party to this Note.

- (1) You may renew or extend payments on this Note, regardless of the number of such renewals or extensions.
- (2) You may release any Borrower, endorser, guarantor, surety, accommodation maker or any other co-signer.
- (3) You may release, substitute or impair any Property securing this Note.
- (4) You, or any institution participating in this Note, may invoke your right of set-off.
- (5) You may enter into any sales, repurchases or participations of this Note to any person in any amounts and I waive notice of such sales, repurchases or participations.
- (6) I agree that any of us signing this Note as a Borrower is authorized to modify the terms of this Note or any instrument securing, guaranteeing or relating to this Note.
- (7) I agree that you may inform any party who guarantees this Loan of any Loan accommodations, renewals, extensions, modifications, substitutions or future advances.

B. **No Waiver By Lender.** Your course of dealing, or your forbearance from, or delay in, the exercise of any of your rights, remedies, privileges or right to insist upon my strict performance of any provisions contained in this Note, or any other Loan Document, shall not be construed as a waiver by you, unless any such waiver is in writing and is signed by you.

15. **REMEDIES.** After I default, you may at your option do any one or more of the following.

- A. **Acceleration.** You may make all or any part of the amount owing by the terms of this Note immediately due.
- B. **Sources.** You may use any and all remedies you have under state or federal law or in any Loan Document.
- C. **Insurance Benefits.** You may make a claim for any and all insurance benefits or refunds that may be available on my default.
- D. **Payments Made On My Behalf.** Amounts advanced on my behalf will be immediately due and may be added to the balance owing under the terms of this Note, and accrue interest at the highest post-maturity interest rate.
- E. **Attachment.** You may attach or garnish my wages or earnings.
- F. **Set-Off.** You may use the right of set-off. This means you may set-off any amount due and payable under the terms of this Note against any right I have to receive money from you.

My right to receive money from you includes any deposit or share account balance I have with you; any money owed to me on an item presented to you or in your possession for collection or exchange; and any repurchase agreement or other non-deposit obligation. "Any amount due and payable under the terms of this Note" means the total amount to which you are entitled to demand payment under the terms of this Note at the time you set-off.

Subject to any other written contract, if my right to receive money from you is also owned by someone who has not agreed to pay this Note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement.

Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to any individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set-off against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

G. **Waiver.** Except as otherwise required by law, by choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

16. **COLLECTION EXPENSES AND ATTORNEYS' FEES.** On or after the occurrence of an Event of Default, to the extent permitted by law, I agree to pay all expenses of collection, enforcement or protection of your rights and remedies under this Note or any other Loan Document. Expenses include (unless prohibited by law) reasonable attorneys' fees, court costs, and other legal expenses. These expenses are due and payable immediately. If not paid immediately, these expenses will bear interest from the date of payment until paid in full at the highest interest rate in effect as provided for in the terms of this Note. All fees and expenses will be secured by the Property I have granted to you, if any. In addition, to the extent permitted by the United States Bankruptcy Code, I agree to pay the reasonable attorneys' fees incurred by you to protect your rights and interests in connection with any bankruptcy proceedings initiated by or against me.

17. **COMMISSIONS.** I understand and agree that you (or your affiliate) will earn commissions or fees on any insurance products, and may earn such fees on other services that I buy through you or your affiliate.

18. **WARRANTIES AND REPRESENTATIONS.** I have the right and authority to enter into this Note. The execution and delivery of this Note will not violate any agreement governing me or to which I am a party.

19. **INSURANCE.** I agree to obtain the insurance described in this Loan Agreement.

A. **Property Insurance.** I will insure or retain insurance coverage on the Property and abide by the insurance requirements of any security instrument securing the Loan.

John Doe  
Ohio Promissory Note  
OH/4XXXHOLLY0000000002299017013122N

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Initials \_\_\_\_\_  
Page 2

B. Insurance Warranties. I agree to purchase any insurance coverages that are required, in the amounts you require, as described in this or any other documents I sign for the Loan. I will provide you with continuing proof of coverage. I will buy or provide insurance from a firm licensed to do business in the State where the Property is located. If I buy or provide the insurance from someone other than you, the firm will be reasonably acceptable to you. I will have the insurance company name you as loss payee on any insurance policy. You will apply the insurance proceeds toward what I owe you on the outstanding balance. I agree that if the insurance proceeds do not cover the amounts I still owe you, I will pay the difference. I will keep the insurance until all debts secured by this agreement are paid. If I want to buy the insurance from you, I have signed a separate statement agreeing to this purchase.

20. APPLICABLE LAW. This Note is governed by the laws of Ohio, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Ohio, unless otherwise required by law.

21. JOINT AND SEVERAL LIABILITY AND SUCCESSORS. My obligation to pay the Loan is independent of the obligation of any other person who has also agreed to pay it. You may sue me alone, or anyone else who is obligated on the Loan, or any number of us together, to collect the Loan. Extending the Loan or new obligations under the Loan, will not affect my duty under the Loan and I will still be obligated to pay the Loan. This Note shall inure to the benefit of and be enforceable by you and your successors and assigns and shall be binding upon and enforceable against me and my successors and assigns.

22. AMENDMENT, INTEGRATION AND SEVERABILITY. This Note may not be amended or modified by oral agreement. No amendment or modification of this Note is effective unless made in writing. This Note and the other Loan Documents are the complete and final expression of the agreement. If any provision of this Note is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable. No present or future agreement securing any other debt I owe you will secure the payment of this Loan if, with respect to this loan, you fail to fulfill any necessary requirements or fail to conform to any limitations of the Truth in Lending Act (Regulation Z) or the Real Estate Settlement Procedures Act (Regulation X) that are required for loans secured by the Property or if, as a result, this Loan would become subject to Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007.

23. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Note.

24. NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Borrower will be deemed to be notice to all Borrowers. I will inform you in writing of any change in my name, address or other application information. I will provide you any correct and complete financial statements or other information you request. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Loan and to confirm your lien status on any Property. Time is of the essence.

25. CREDIT INFORMATION. I agree to supply you with whatever information you reasonably request. You will make requests for this information without undue frequency, and will give me reasonable time in which to supply the information.

26. ERRORS AND OMISSIONS. I agree, if requested by you, to fully cooperate in the correction, if necessary, in the reasonable discretion of you of any and all loan closing documents so that all documents accurately describe the loan between you and me. I agree to assume all costs including by way of illustration and not limitation, actual expenses, legal fees and marketing losses for failing to reasonably comply with your requests within thirty (30) days.

CONFESSION OF JUDGMENT. If I default, I authorize any attorney to appear in a court of record and confess judgment against me in favor of you. The confession of judgment may be without process and for any amount due on this Note including court fees, collection costs and reasonable attorneys' fees. This is in addition to other remedies.

27. SIGNATURES. By signing under seal, I agree to the terms contained in this Note. I also acknowledge receipt of a copy of this Note.

Solely for the warning directly below, "you" and "your" refer to each Borrower signing below.

**WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.**

BORROWER:

John Doe Date (Seal)

LENDER:

Osgood Bank

By Sharon Lobo, Senior Lending Officer Date (Seal)



**GUARANTY**  
(Continuing Debt - Unlimited)

DATE AND PARTIES. The date of this Guaranty is January 31, 2022. The parties and their addresses are:

**LENDER:**

OSGOOD BANK  
275 W Main Street  
PO Box 69  
Osgood, OH 45351  
Telephone: (419) 582-2681

**BORROWER:**

JOHN DOE  
123 Anywhere Street  
Fl Laramie, OH 45045

**GUARANTOR:**

JAMES DOE  
123 Anywhere  
New York, NY 10012

**1. DEFINITIONS.** As used in this Guaranty, the terms have the following meanings:

- A. **Pronouns.** The pronouns "I," "me" and "my" refer to all persons or entities signing this Guaranty, severally and together. "You" and "your" refer to the Lender.
- B. **Note.** "Note" refers to the document that evidences the Borrower's indebtedness, and any extensions, renewals, modifications and substitutions of the Note.
- C. **Property.** "Property" means any property, real, personal or intangible, that secures performance of the obligations of the Note, Debt, or this Guaranty.
- D. **Loan.** "Loan" refers to this transaction generally, including obligations and duties arising from the terms of all documents prepared or submitted for this transaction.
- E. **Loan Documents.** "Loan Documents" refer to all the documents executed as a part of or in connection with the Loan.

**2. SPECIFIC AND FUTURE DEBT GUARANTY.** For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and to induce you, at your option, to make loans or engage in any other transactions with the Borrower from time to time, I absolutely and unconditionally agree to all terms of and guaranty to you the payment and performance of each and every Debt, of every type, purpose and description that the Borrower either individually, among all or a portion of themselves, or with others, may now or at any time in the future owe you, including, but not limited to the following described Debt(s) including without limitation, all principal, accrued interest, attorneys' fees and collection costs, when allowed by law, that may become due from the Borrower to you in collecting and enforcing the Debt and all other agreements with respect to the Borrower.

A promissory note or other agreement, No. TESTKONA, dated January 31, 2022, from John Doe (Borrower) to you, in the amount of \$120,200.00.

In addition, Debt refers to debts, liabilities, and obligations of the Borrower (including, but not limited to, amounts agreed to be paid under the terms of any notes or agreements securing the payment of any debt, loan, liability or obligation, overdrafts, letters of credit, guaranties, advances for taxes, insurance, repairs and storage, and all extensions, renewals, refinancings and modifications of these debts) whether now existing or created or incurred in the future, due or to become due, or absolute or contingent, including obligations and duties arising from the terms of all documents prepared or submitted for the transaction such as applications, security agreements, disclosures, and the Note.

You may, without notice, apply this Guaranty to such Debt of the Borrower as you may select from time to time.

**3. EXTENSIONS.** I consent to all renewals, extensions, modifications and substitutions of the Debt which may be made by you upon such terms and conditions as you may see fit from time to time without further notice to me and without limitation as to the number of renewals, extensions, modifications or substitutions.

**4. UNCONDITIONAL LIABILITY.** I am unconditionally liable under this Guaranty, regardless of whether or not you pursue any of your remedies against the Borrower, against any other maker, surety, guarantor or endorser of the Debt or against any Property. You may sue me alone, or anyone else who is obligated on this Guaranty, or any number of us together, to collect the Debt. My liability is not conditioned on the signing of this Guaranty by any other person and further is not subject to any condition not expressly set forth in this Guaranty or any instrument executed in connection with the Debt. My obligation to pay according to the terms of this Guaranty shall not be affected by the illegality, invalidity or unenforceability of any notes or agreements evidencing the Debt, the violation of any applicable usury laws, forgery, or any other circumstances which make the indebtedness unenforceable against the Borrower. I will remain obligated to pay on this Guaranty even if any other person who is obligated to pay the Debt, including the Borrower, has such obligation discharged in bankruptcy, foreclosure, or otherwise discharged by law.

**5. BANKRUPTCY.** If a bankruptcy petition should at any time be filed by or against the Borrower, the maturity of the Debt, so far as my liability is concerned, shall be accelerated and the Debt shall be immediately payable by me. I acknowledge and agree that this Guaranty, and the Debt secured hereby, will remain in full force and effect at all times, notwithstanding any action or undertakings by, or against, you or against any Property, in connection with any obligation in any proceeding in the United States Bankruptcy Courts. Such action or undertaking includes, without limitation, valuation of Property, election of remedies or imposition of secured or unsecured claim status upon claims by you, pursuant to the United States Bankruptcy Code, as amended. In the event that any payment of principal or interest received and paid by any other guarantor, borrower, surety, endorser or co-maker is deemed, by final order of a court of competent jurisdiction, to have been a voidable preference under the bankruptcy or insolvency laws of the United States or otherwise, then my obligation will remain as an obligation to you and will not be considered as having been extinguished.

**6. REVOCATION.** I agree that this is an absolute and unconditional Guaranty. I agree that this Guaranty will remain binding on me, whether or not there are any Debts outstanding, until you have actually received written notice of my revocation or written notice of my death or incompetence. Notice of revocation or notice of my death or incompetence will not affect my obligations under this Guaranty with respect to any Debts incurred by or for which you have made a commitment to Borrower before you actually receive such notice, and all renewals, extensions, refinancings, and modifications of such Debts. I agree that if any other person signing this Guaranty provides a notice of revocation to you, I will still be obligated under this Guaranty until I provide such a notice of revocation to you. If any other person signing this Guaranty dies or is declared incompetent, such fact will not affect my obligations under this Guaranty.

**7. LIMITATIONS ON CROSS-COLLATERALIZATION.** The cross-collateralization clause on any existing or future loan, but not including this Loan, is void and ineffective as to this Loan, including any extension or refinancing.

**8. PROPERTY.** I agree that any Property may be assigned, exchanged, released in whole or in part or substituted without notice to me and without defeating, discharging or diminishing my liability. My obligation is absolute and your failure to perfect any security interest or any act or omission by you which impairs the Property will not relieve me or my liability under this Guaranty. You are under no duty to preserve or protect any Property until you are in actual or constructive possession. For purposes of this paragraph, you will only be in "actual" possession when you have physical, immediate and exclusive control over the Property and have accepted such control in writing. Further, you will only be deemed to be in "constructive" possession when you have both the power and intent to exercise control over the Property.

**9. DEFAULT.** I will be in default if any of the following events (known separately and collectively as an Event of Default) occur:

- A. **Payments.** I fail to make a payment in full when due.
- B. **Insolvency or Bankruptcy.** The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me, Borrower, or any co-signer, endorser, surety or guarantor of this Guaranty or any Debt.
- C. **Death or Incompetency.** I die or am declared legally incompetent.
- D. **Failure to Perform.** I fail to perform any condition or to keep any promise or covenant of this Guaranty.
- E. **Other Documents.** A default occurs under the terms of any other document relating to the Debt.
- F. **Other Agreements.** I am in default on any other debt or agreement I have with you.

James Doe  
Ohio Guaranty  
OH/4XXXHOLLY0000000002299017013122N

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Initials \_\_\_\_\_  
Page 1



G. Misrepresentation. I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.

H. Judgment. I fail to satisfy or appeal any judgment against me.

I. Forfeiture. The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.

J. Name Change. I change my name or assume an additional name without notifying you before making such a change.

K. Property Transfer. I transfer all or a substantial part of my money or property.

L. Property Value. You determine in good faith that the value of the Property has declined or is impaired.

M. Insecurity. You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Guaranty or that the prospect for payment or performance of the Debt is impaired for any reason.

10. **WAIVERS AND CONSENT.** To the extent not prohibited by law, I waive protest, presentment for payment, demand, notice of acceleration, notice of intent to accelerate and notice of dishonor.

A. **Additional Waivers.** In addition, to the extent permitted by law, I consent to certain actions you may take, and generally waive defenses that may be available based on these actions or based on the status of a party to the Debt or this Guaranty.

(1) You may renew or extend payments on the Debt, regardless of the number of such renewals or extensions.

(2) You may release any Borrower, endorser, guarantor, surety, accommodation maker or any other co-signer.

(3) You may release, substitute or impair any Property.

(4) You, or any institution participating in the Debt, may invoke your right of set-off.

(5) You may enter into any sales, repurchases or participations of the Debt to any person in any amounts and I waive notice of such sales, repurchases or participations.

(6) I agree that the Borrower is authorized to modify the terms of the Debt or any instrument securing, guarantying or relating to the Debt.

(7) You may undertake a valuation of any Property in connection with any proceedings under the United States Bankruptcy Code concerning the Borrower or me, regardless of any such valuation, or actual amounts received by you arising from the sale of such Property.

(8) I agree to consent to any waiver granted the Borrower, and agree that any delay or lack of diligence in the enforcement of the Debt, or any failure to file a claim or otherwise protect any of the Debt, in no way affects or impairs my liability.

(9) I agree to waive reliance on any anti-deficiency statutes, through subrogation or otherwise, and such statutes in no way affect or impair my liability. In addition, until the obligations of the Borrower to Lender have been paid in full, I waive any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any other right I may have to enforce any remedy which you now have or in the future may have against the Borrower or another guarantor or as to any Property.

Any Guarantor who is an "insider," as contemplated by the United States Bankruptcy Code, 11 U.S.C. 101, as amended, makes these waivers permanently. (An insider includes, among others, a director, officer, partner, or other person in control of the Borrower, a person or an entity that is a co-partner with the Borrower, an entity in which the Borrower is a general partner, director, officer or other person in control or a close relative of any of these other persons.) Any Guarantor who is not an insider makes these waivers until all Debt is fully repaid.

B. **No Waiver By Lender.** Your course of dealing, or your forbearance from, or delay in, the exercise of any of your rights, remedies, privileges or right to insist upon my strict performance of any provisions contained in the Debt instruments, shall not be construed as a waiver by you, unless any such waiver is in writing and is signed by you.

C. **Waiver of Claims.** I waive all claims for loss or damage caused by your acts or omissions where you acted reasonably and in good faith.

11. **REMEDIES.** After the Borrower or I default, you may at your option do any one or more of the following:

A. **Acceleration.** You may make all or any part of the amount owing by the terms of this Guaranty immediately due.

B. **Sources.** You may use any and all remedies you have under state or federal law or in any documents relating to the Debt.

C. **Insurance Benefits.** You may make a claim for any and all insurance benefits or refunds that may be available on default.

D. **Payments Made on the Borrower's Behalf.** Amounts advanced on the Borrower's behalf will be immediately due and may be added to the balance owing under the Debt.

E. **Attachment.** You may attach or garnish my wages or earnings.

F. **Set-Off.** You may use the right of set-off. This means you may set-off any amount due and payable under the terms of this Guaranty against any right I have to receive money from you.

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My right to receive money from you includes any deposit or share account balance I have with you; any money owed to me on an item presented to you or in your possession for collection or exchange; and any repurchase agreement or other non-deposit obligation. "Any amount due and payable under the terms of this Guaranty" means the total amount to which you are entitled to demand payment under the terms of this Guaranty at the time you set-off.

Subject to any other written contract, if my right to receive money from you is also owned by someone who has not agreed to pay the Debt, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement.

Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set-off against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

G. **Waiver.** Except as otherwise required by law, by choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

12. **COLLECTION EXPENSES AND ATTORNEYS' FEES.** On or after the occurrence of an Event of Default, to the extent permitted by law, I agree to pay all expenses of collection, enforcement or protection of your rights and remedies under this Guaranty or any other document relating to the Debt. To the extent permitted by law, expenses include, but are not limited to, reasonable attorneys' fees, court costs and other legal expenses. All fees and expenses will be secured by the Property I have granted to you, if any. In addition, to the extent permitted by the United States Bankruptcy Code, I agree to pay the reasonable attorneys' fees incurred by you to protect your rights and interests in connection with any bankruptcy proceedings initiated by or against me.

13. **WARRANTIES AND REPRESENTATIONS.** I have the right and authority to enter into this Guaranty. The execution and delivery of this Guaranty will not violate any agreement governing me or to which I am a party.

In addition, I represent and warrant that this Guaranty was entered into at the request of the Borrower, and that I am satisfied regarding the Borrower's financial condition and existing indebtedness, authority to borrow and the use and intended use of all Debt proceeds. I further represent and warrant that I have not relied on any representations or omissions from you or any information provided by you respecting the Borrower, the Borrower's financial condition and existing indebtedness, the Borrower's authority to borrow or the Borrower's use and intended use of all Debt proceeds.

14. **RELiance.** I acknowledge that you are relying on this Guaranty in extending credit to the Borrower, and I have signed this Guaranty to induce you to extend such credit. I represent and warrant to you that I expect to derive substantial benefits from any loans and financial accommodations resulting in the creation of indebtedness guaranteed hereby. I agree to rely exclusively on the right to revoke this Guaranty prospectively as to future transactions in the manner as previously described in this Guaranty if at any time, in my opinion, the benefits then being received by me in connection with this Guaranty are not sufficient to warrant the continuance of this Guaranty. You may rely conclusively on a continuing warranty that I continue to be benefited by this Guaranty and you will have no duty to inquire into or confirm the receipt of any such benefits, and this Guaranty will be effective and enforceable by you without regard to the receipt, nature or value of any such benefits.

15. **APPLICABLE LAW.** This Guaranty is governed by the laws of Ohio, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Ohio, unless otherwise required by law.

16. **AMENDMENT, INTEGRATION AND SEVERABILITY.** This Guaranty may not be amended or modified by oral agreement. No amendment or modification of this Guaranty is effective unless made in writing. This Guaranty and the other Loan Documents are the complete and final expression of the agreement. If any provision of this Guaranty is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

17. **ASSIGNMENT.** If you assign any of the Debts, you may assign all or any part of this Guaranty without notice to me or my consent, and this Guaranty will inure to the benefit of your assignee to the extent of such assignment. You will continue to have the unimpaired right to enforce this Guaranty as to any of the Debts that are not assigned. This Guaranty shall inure to the benefit of and be enforceable by you and your successors and assigns and any other person to whom you may grant an interest in the Debts and shall be binding upon and enforceable against me and my personal representatives, successors, heirs and assigns.

James Doe  
Ohio Guaranty  
OH/4XXXHOLLY0000000002299017013122N

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18. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Guaranty.

19. NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Guarantor will be deemed to be notice to all Guarantors. I will inform you in writing of any change in my name, address or other application information. I will provide you any correct and complete financial statements or other information you request. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Guaranty and to confirm your lien status on any Property. Time is of the essence.

20. CREDIT INFORMATION. I agree that from time to time you may obtain credit information about me from others, including other lenders and credit reporting agencies, and report to others (such as a credit reporting agency) your credit experience with me. I agree that you will not be liable for any claim arising from the use of information provided to you by others or for providing such information to others.

CONFESSON OF JUDGMENT. If I default, I authorize any attorney to appear in a court of record and confess judgment against me in favor of you. The confession of judgment may be without process and for any amount due on this Guaranty including court fees, collection costs and reasonable attorneys' fees.  
This is in addition to other remedies.

21. SIGNATURES. By signing under seal, I agree to the terms contained in this Guaranty. I also acknowledge receipt of a copy of this Guaranty.

Solely for the warning directly below, "you" and "your" refer to each Guarantor signing below.

**WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.**

GUARANTOR:

James Doe \_\_\_\_\_ Date \_\_\_\_\_ (Seal)

LENDER:

Osgood Bank

By \_\_\_\_\_ Date \_\_\_\_\_ (Seal)  
Sharon Lobo, Senior Lending Officer

James Doe  
Ohio Guaranty  
OH/4XXXHOLLY0000000002299017013122N

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## SECURITY AGREEMENT

DATE AND PARTIES. The date of this Security Agreement (Agreement) is March 1, 2022. The parties and their addresses are:

SECURED PARTY:  
OSGOOD BANK  
275 W Main Street  
PO Box 69  
Osgood, OH 45361

DEBTOR:  
JOHN DOE  
123 Anywhere Street  
El Loranio, OH 45845

Definitions. For the purposes of this document, the following terms have the following meanings:

"Loan" refers to this transaction generally, including obligations and duties arising from the terms of all documents prepared or submitted for this transaction.

The pronouns "you" and "your" refer to the Secured Party. The pronouns "I," "me" and "my" refer to each person or entity signing this Agreement as Debtor and agreeing to give the Property described in this Agreement as security for the Secured Debts.

1. SECURED DEBTS. The term "Secured Debts" includes and this Agreement will secure each of the following:

A. Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A promissory note or other agreement, No. TESTKONA, dated January 31, 2022, from me to you, in the amount of \$120,200.00.

B. All Debts. All present and future debts from me to you, even if this Agreement is not specifically referenced, the future debts are also secured by other collateral, or if the future debt is unrelated to or of a different type than this debt. If more than one person signs this Agreement, each agrees that it will secure debts incurred either individually or with others who may not sign this Agreement. Nothing in this Agreement constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing.

This Agreement will not secure any debt for which a non-possessory, non-purchase money security interest is created in "household goods" in connection with a "consumer loan," as those terms are defined by federal law governing unfair and deceptive credit practices. In addition, this Agreement will not secure any other debt if, with respect to such other debt, you fail to fulfill any necessary requirements or fail to conform to any limitations of the Truth in Lending Act (Regulation Z) or the Real Estate Settlement Procedures Act (Regulation X) that are required for loans secured by the Property or if, as a result, the other debt would become subject to Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007.

C. Sums Advanced. All sums advanced and expenses incurred by you under the terms of this Agreement.

Loan Documents refer to all the documents executed in connection with the Secured Debts.

2. LIMITATIONS ON CROSS-COLLATERALIZATION. The cross-collateralization clause on any existing or future loan, but not including this Loan, is void and ineffective as to this Loan, including any extension or refinancing.

3. SECURITY INTEREST. To secure the payment and performance of the Secured Debts, I grant you a security interest in all of the Property described in this Agreement that I own or have sufficient rights in which to transfer an interest, now or in the future, wherever the Property is or will be located, and all proceeds and products from the Property (including, but not limited to, all parts, accessories, repairs, replacements, improvements, and accessions to the Property). Property is all the collateral given as security for the Secured Debts and described in this Agreement, and includes all obligations that support the payment or performance of the Property. "Proceeds" includes cash proceeds, non-cash proceeds and anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights and claims arising from the Property; and any collections and distributions on account of the Property.

Property also includes any original evidence of title or ownership whether evidenced by a certificate of title or ownership, a manufacturer's statement of origin or other document upon the Property is titled under any federal or state law. I will deliver the title documents and properly execute all title documents as necessary to reflect your security interest.

This Agreement remains in effect until terminated in writing, even if the Secured Debts are paid and you are no longer obligated to advance funds to me under any loan or credit agreement.

4. PROPERTY DESCRIPTION. The Property is described as follows:

A. All Assets. All present and future right, title and interest in and to any and all personal property of the Debtor, whether such property is now existing or hereafter created, acquired or arising and wherever located from time to time, including without limitation, the following categories of property: goods (including inventory, equipment, fixtures, farm products and any accessions thereto), instruments (including promissory notes), documents, accounts (including health-care insurance receivables), chattel paper (whether tangible or electronic), deposit accounts, letter-of-credit rights (whether or not the letter-of-credit is evidenced by a writing), commercial tort claims, securities and all other investment property, general intangibles (including payment intangibles and software), all supporting obligations and all proceeds, products, additions, accessions, substitutions and replacements of the foregoing property.

Any term used herein is as defined by the Uniform Commercial Code and further as modified or amended by the laws of the jurisdiction which governs this transaction.

B. Motor Vehicle, Mobile Home, Sport Craft, or Trailer. A Motor Vehicle of Make: Kora, Year: 2021, Model: Entertainment Vehicle, VIN: , and additionally described: 2021 Kora Entertainment Vehicle.

5. WARRANTIES AND REPRESENTATIONS. I have the right and authority to enter into this Agreement. The execution and delivery of this Agreement will not violate any agreement governing me or to which I am a party. I am located at the address indicated in the DATE AND PARTIES section. I will provide you with at least 30 days notice prior to any change in my name or principal residence location.

A. Ownership of Property. I represent that I own all of the Property. I represent that the vehicle portion of the Property is not a vehicle seized pursuant to any federal, state or local forfeiture law. Your claim to the Property is ahead of the claims of any other creditor, except as disclosed in writing to you prior to any advance on the Secured Debts. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

6. DUTIES TOWARD PROPERTY.

A. Protection of Secured Party's Interest. I will defend the Property against any other claims. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these and make copies at any reasonable time. I will prepare any report or accounting you request which deals with the Property.

B. Use, Location, and Protection of the Property. I will keep the Property in my possession and in good repair. I will use it only for commercial purposes. I will not change this specified use without your prior written consent. You have the right of reasonable access to inspect the Property and I will immediately inform you of any loss or damage to the Property. I will not cause or permit waste to the Property.

I will keep the Property at my address listed in the DATE AND PARTIES section unless we agree I may keep it at another location. If the Property is to be used in other states, I will give you a list of those states. The location of the Property is given to aid in the identification of the Property. It does not in any way limit the scope of the security interest granted to you. I will notify you in writing and obtain your prior written consent to any change in location of any of the Property. I will not use the Property in violation of any law. I will notify you in writing prior to any change in my name or address.

Until the Secured Debts are fully paid and this Agreement is terminated, I will not grant a security interest in any of the Property without your prior written consent. I will pay all taxes and assessments levied or assessed against me or the Property and provide timely proof of payment of these taxes and assessments upon request.

C. Selling, Leasing or Encumbering the Property. I will not sell, offer to sell, lease, or otherwise transfer or encumber the Property without your prior written permission. Any disposition of the Property contrary to this Agreement will violate your rights. Your permission to sell the Property may be reasonably withheld without regard to the creditworthiness of any buyer or transferee. I will not permit the Property to be the subject of any court order affecting my rights to the Property in any action by anyone other than you. If the Property includes chattel paper or instruments, either as original collateral or as proceeds of the Property, I will note your security interest on the face of the chattel paper or instruments.

John Doe  
Ohio Security Agreement  
OH/4XXXHOLLY0000000002299017013122N

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D. Additional Duties Specific to Motor Vehicles, Sport Craft, or Trailers. So long as I am not in default under this Agreement, the Motor Vehicle, Sport Craft, or Trailer portion of the Property will not be restricted to a specific location and may be moved as necessary during ordinary use. However, they may not be taken out of state permanently nor removed from the United States or Canada without your prior written consent.

7. **INSURANCE.** I agree to keep the Property insured against the risks reasonably associated with the Property. I will maintain this insurance in the amounts you require. This insurance will last until the Property is released from this Agreement. I may choose the insurance company, subject to your approval, which will not be unreasonably withheld.

I will have the insurance company name you as loss payee on any insurance policy. I will give you and the insurance company immediate notice of any loss. You may apply the insurance proceeds toward what is owed on the Secured Debts. You may require added security as a condition of permitting any insurance proceeds to be used to repair or replace the Property.

If you acquire the Property in damaged condition, my right to any insurance policies and proceeds will pass to you to the extent of the Secured Debts.

I will immediately notify you of cancellation or termination of insurance. If I fail to keep the Property insured, you may obtain insurance to protect your interest in the Property and I will pay for the insurance on your demand. You may demand that I pay for the insurance all at once, or you may add the insurance premiums to the balance of the Secured Debts and charge interest on it at the rate that applies to the Secured Debts. This insurance may include lesser or greater coverages than originally required of me, may be written by a company other than one I would choose, and may be written at a higher rate than I could obtain if I purchased the insurance. This insurance coverage does not satisfy any liability or property insurance that may be mandated by applicable state or federal law. I acknowledge and agree that you or one of your affiliates may receive commissions on the purchase of this insurance.

8. **COLLECTION RIGHTS OF THE SECURED PARTY.** Account Debtor means the person who is obligated on an account, chattel paper, or general intangible. I authorize you to notify my Account Debtors of your security interest and to deal with the Account Debtors' obligations at your discretion. You may enforce the obligations of an Account Debtor, exercising any of my rights with respect to the Account Debtors' obligations to make payment or otherwise render performance to me, including the enforcement of any security interest that secures such obligations. You may apply proceeds received from the Account Debtors to the Secured Debts or you may release such proceeds to me.

I specifically and irrevocably authorize you to exercise any of the following powers at my expense, without limitation, until the Secured Debts are paid in full:

- demand payment and enforce collection from any Account Debtor or Obligor by suit or otherwise;
- enforce any security interest, lien or encumbrance given to secure the payment or performance of any Account Debtor or any obligation constituting Property;
- file proofs of claim or similar documents in the event of bankruptcy, insolvency or death of any person obligated as an Account Debtor;
- compromise, release, extend, or exchange any indebtedness of an Account Debtor;
- take control of any proceeds of the Account Debtors' obligations and any returned or repossessed goods;
- endorse all payments by any Account Debtor which may come into your possession as payable to me;
- deal in all respects as the holder and owner of the Account Debtors' obligations.

9. **AUTHORITY TO PERFORM.** I authorize you to do anything you deem reasonably necessary to protect the Property, and perfect and continue your security interest in the Property. If I fail to perform any of my duties under this Agreement or any other Loan Document, you are authorized, without notice to me, to perform the duties or cause them to be performed.

These authorizations include, but are not limited to, permission to:

- pay and discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Property;
- pay any rents or other charges under any lease affecting the Property;
- order and pay for the repair, maintenance and preservation of the Property;
- file any financing statements on my behalf and pay for filing and recording fees pertaining to the Property;
- place a note on any chattel paper indicating your interest in the Property;
- take any action you feel necessary to realize on the Property, including performing any part of a contract or endorsing it in my name;
- handle any suits or other proceedings involving the Property in my name;
- prepare, file, and sign my name to any necessary reports or accountings;
- make an entry on my books and records showing the existence of this Agreement;
- notify any Account Debtor or Obligor of your interest in the Property and tell the Account Debtor or Obligor to make payments to you or someone else you name.

If you perform for me, you will use reasonable care. If you exercise the care and follow the procedures that you generally apply to the collection of obligations owed to you, you will be deemed to be using reasonable care. Reasonable care will not include: any steps necessary to preserve rights against prior parties; the duty to send notices, perform services or take any other action in connection with the management of the Property; or the duty to protect, preserve or maintain any security interest given to others by me or other parties. Your authorization to perform for me will not create an obligation to perform and your failure to perform will not preclude you from exercising any other rights under the law or this Loan Agreement. All cash and non-cash proceeds of the Property may be applied by you only upon your actual receipt of cash proceeds against such of the Secured Debts, matured or unmatured, as you determine in your sole discretion.

If you come into actual or constructive possession of the Property, you will preserve and protect the Property. For purposes of this paragraph, you will be in actual possession of the Property only when you have physical, immediate and exclusive control over the Property and you have affirmatively accepted that control. You will be in constructive possession of the Property only when you have both the power and the intent to exercise control over the Property.

10. **DEFAULT.** I will be in default if any of the following events (known separately and collectively as an Event of Default) occur:

- Payments. I fail to make a payment in full when due.
- Insolvency or Bankruptcy. The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me, Obligor, or any co-signer, endorser, surety or guarantor of this Agreement or any other obligations Obligor has with you.
- Death or Incompetency. I die or am declared legally incompetent.
- Failure to Perform. I fail to perform any condition or to keep any promise or covenant of this Agreement.
- Other Documents. A default occurs under the terms of any other Loan Document.
- Other Agreements. I am in default on any other debt or agreement I have with you.
- Misrepresentation. I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.
- Judgment. I fail to satisfy or appeal any judgment against me.
- Furtiveness. The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- Name Change. I change my name or assume an additional name without notifying you before making such a change.
- Property Transfer. I transfer all or a substantial part of my money or property.
- Property Value. You determine in good faith that the value of the Property has declined or is impaired.
- Insolvency. You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Agreement or that the prospect for payment or performance of the Secured Debts is impaired for any reason.

11. **DUE ON SALE OR ENCUMBRANCE.** You may, at your option, declare the entire balance of this Agreement to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law, as applicable.

12. **REMEDIES.** After default, you may at your option do any one or more of the following.

- Acceleration. You may make all or any part of the amount owing by the terms of the Secured Debts immediately due.
- Sources. You may use any and all remedies you have under state or federal law or in any Loan Document.
- Insurance Benefits. You may make a claim for any and all insurance benefits or refunds that may be available on my default.

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Ohio Security Agreement  
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D. Payments Made On My Behalf. Amounts advanced on my behalf will be immediately due and may be added to the Secured Debts.

E. Attachment. You may attach or garnish my wages or earnings.

F. Assembly of Property. You may require me to gather the Property and make it available to you in a reasonable fashion.

G. Repossession. You may repossess the Property so long as the repossession does not involve a breach of the peace. You may sell, lease or otherwise dispose of the Property as provided by law. You may apply what you receive from the disposition of the Property to your expenses, your attorneys' fees and legal expenses (where not prohibited by law), and any debt I owe you. If what you receive from the disposition of the Property does not satisfy the debt, I will be liable for the deficiency (where permitted by law). In some cases, you may keep the Property to satisfy the debt.

Where a notice is required, I agree that ten days prior written notice sent by first class mail to my address listed in this Agreement will be reasonable notice to me under the Ohio Uniform Commercial Code. If the Property is perishable or threatens to decline speedily in value, you may, without notice to me, dispose of any or all of the Property in a commercially reasonable manner at my expense following any commercially reasonable preparation or processing (where permitted by law).

If any items not otherwise subject to this Agreement are contained in the Property when you take possession, you may hold these items for me at my risk and you will not be liable for taking possession of them (where permitted by law).

H. Use and Operation. You may enter upon my premises and take possession of all or any part of my property for the purpose of preserving the Property or its value, so long as you do not breach the peace. You may use and operate my property for the length of time you feel is necessary to protect your interest, all without payment or compensation to me.

I. Waiver. By choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

13. WAIVER OF CLAIMS. I waive all claims for loss or damage caused by your acts or omissions where you acted reasonably and in good faith.

14. PERFECTION OF SECURITY INTEREST AND COSTS. I authorize you to file a financing statement and/or security agreement, as appropriate, covering all of my personal Property. I will comply with, facilitate, and otherwise assist you in connection with obtaining perfection or control over the Property for purposes of perfecting your security interest under the Uniform Commercial Code. I agree to pay all taxes, fees and costs you pay or incur in connection with preparing, filing or recording any financing statements or other security interest filings on the Property. I agree to pay all actual costs of terminating your security interest.

15. APPLICABLE LAW. This Agreement is governed by the laws of Ohio, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Ohio, unless otherwise required by law.

16. JOINT AND SEVERAL LIABILITY AND SUCCESSORS. Each Debtor's obligations under this Agreement are independent of the obligations of any other Debtor. You may sue each Debtor individually or together with any other Debtor. You may release any part of the Property and I will still be obligated under this Agreement for the remaining Property. Debtor agrees that you and any party to this Agreement may extend, modify or make any change in the terms of this Agreement or any evidence of debt without Debtor's consent. Such a change will not release Debtor from the terms of this Agreement. If you assign any of the Secured Debts, you may assign all or any part of this Agreement without notice to me or my consent, and this Agreement will inure to the benefit of your assignee to the extent of such assignment. You will continue to have the unimpaired right to enforce this Agreement as to any of the Secured Debts that are not assigned. This Agreement shall inure to the benefit of and be enforceable by you and your successors and assigns and any other person to whom you may grant an interest in the Secured Debts and shall be binding upon and enforceable against me and my successors and assigns.

17. AMENDMENT, INTEGRATION AND SEVERABILITY. This Agreement may not be amended or modified by oral agreement. No amendment or modification of this Agreement is effective unless made in writing. This Agreement and the other Loan Documents are the complete and final expression of the understanding between you and me. If any provision of this Agreement is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

18. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Agreement.

19. NOTICE AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Debtor will be deemed to be notice to all Debtors. I will inform you in writing of any change in my name, address or other application information. I will provide you any other, correct and complete information you request to effectively grant a security interest on the Property. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Agreement and to confirm your lien status on any Property. Time is of the essence.

CONFESSION OF JUDGMENT. If I default, I authorize any attorney to appear in a court of record and confess judgment against me in favor of you. The confession of judgment may be without process and for any amount due on the Secured Debts including court fees, collection costs and reasonable attorneys' fees. This is in addition to other remedies.

SIGNATURES. By signing under seal, I agree to the terms contained in this Agreement. I also acknowledge receipt of a copy of this Agreement.

Solely for the warning directly below, "you" and "your" refer to each Debtor signing below.

**WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.**

DEBTOR:

\_\_\_\_\_  
John Doe Date \_\_\_\_\_ (Seal)

SECURED PARTY:

Osgood Bank

By \_\_\_\_\_ Date \_\_\_\_\_ (Seal)  
Sharon Lobo, Senior Lending Officer

John Doe  
Ohio Security Agreement  
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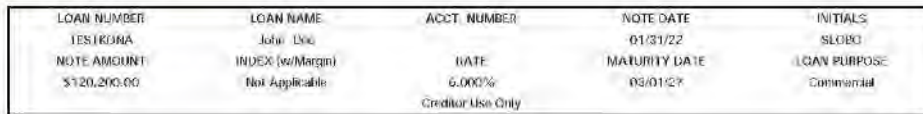
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[20232024 FDD v1F]

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**DATE AND PARTIES.** The date of this Promissory Note (Note) is January 31, 2022. The parties and their addresses are:

BORROWER:  
JOHN DOE  
123 Anywhere Street  
Dulles, VA 45845

7. **DEFINITIONS:** As used in this Note, the terms have the following meanings:

**A. Pronouns.** The pronouns "I," "me" and "my" refer to each Borrower signing this Note and each other person, in legal entity (including partners, partners, and service) who agrees to pay this Note. "You" and "Your" refer to the Lender, any participants or syndicators, successors and assigns, or any person or company that acquires an interest in the Loan.

**B. Note.** Note refers to this document, and any extensions, renewals, modifications and substitutions of this Note.

**C. Loan.** Loan refers to this transaction generally, including obligations and duties arising from the terms of all documents prepared or submitted for this transaction such as applications, security agreements, disclosures or notes, and this Note.

**D. Loan Documents.** Loan Documents refer to all the documents executed as a part of or in connection with the Loan.

**E. Property.** Property is any property, real, personal or intangible, that secures my performance of the obligations of this Loan.

**F. Percent.** Rates and other charge limitations are expressed as annualized percentages.

**G. Dollar Amounts.** All dollar amounts will be payable in lawful money of the United States of America.

2. **PROMISE TO PAY.** For value received, I promise to pay you or your order, at your address, or at such other location as you may designate, the principal sum of \$120,250.00 (Principal) plus interest from January 31, 2022 on the unpaid Principal balance until this Note matures or this obligation is accelerated.

3. **INTEREST:** Interest will accrue on the unpaid Principal balance of this Note at the rate of 6.000 percent (Interest Rate).

A. **Post-Maturity Interest:** After maturity or acceleration, interest will accrue on the unpaid Principal balance of this Note at 18.000 percent until paid in full.

B. **Maximum Interest Amount:** Any amount assessed or collected as interest under the terms of this Note will be limited to the maximum lawful amount of interest allowed by applicable law. Amounts collected in excess of the maximum lawful amount will be applied first to the unpaid Principal balance. Any remainder will be refunded to me.

C. **Accrual:** Interest accrues using an Actual/360 days counting method.

4. **ADDITIONAL CHARGES.** As additional consideration, I agree to pay, or have paid, these additional fees and charges:

A. Nonrefundable Fees and Charges. The following fees are earned when collected and will not be refunded if I prepay this Note before the Scheduled maturity date.

Loan: A(n) Loan fee of \$200.00 payable from the loan proceeds.

5. **REMEDIAL CHARGES.** In addition to interest or other finance charges, I agree that I will pay these additional fees based on my method and pattern of payment. Additional remedial charges may be described elsewhere in this Note.

A. **Late Charges:** If a payment is more than 10 days late, I will be charged 10.000 percent of the Amount of Payment or \$10.00, whichever is greater. However, this charge will not be greater than \$100.00. I will pay this late charge promptly but only once for each late payment.

5. **PAYMENT** I agree to pay this Note, as claimed, but, if no demand is made, I will make 9 payment(s) of Principal and Interest in the amount of \$3,000.00 beginning December 1, 2022 and on the 1st day of each month thereafter. I will make 3 payment(s) of Principal and Interest in the amount of \$100.00 beginning December 1, 2022 and on the 1st day of each month thereafter. I will make 9 payment(s) of Principal and Interest in the amount of \$3,000.00 beginning March 1, 2023 and on the 1st day of each month thereafter. I will make 3 payment(s) of Principal and Interest in the amount of \$100.00 beginning December 1, 2023 and on the 1st day of each month thereafter. I will make 9 payment(s) of Principal and Interest in the amount of \$3,000.00 beginning March 1, 2024 and on the 1st day of each month thereafter. I will make 3 payment(s) of Principal and Interest in the amount of \$100.00 beginning December 1, 2024 and on the 1st day of each month thereafter. I will make 9 payment(s) of Principal and Interest in the amount of \$3,000.00 beginning March 1, 2025 and on the 1st day of each month thereafter. I will make 3 payment(s) of Principal and Interest in the amount of \$100.00 beginning December 1, 2025 and on the 1st day of each month thereafter. I will make 9 payment(s) of Principal and Interest in the amount of \$3,000.00 beginning March 1, 2026 and on the 1st day of each month thereafter. I will make 3 payment(s) of Principal and Interest in the amount of \$100.00 beginning December 1, 2026 and on the 1st day of each month thereafter. I will make 1 payment(s) of Principal and Interest in the amount of \$2,353.76 on March 1, 2027.

Payments will be rounded to the nearest \$ .01. With the final payment, I also agree to pay any additional fees or charges owing and the amount of any advances you have made to others on my behalf. Payments scheduled to be paid on the 29th, 30th or 31st day of a month that contains no such day will, instead, be made on the last day of such month.

Interest only payments will be applied first to any charges I owe other than late charges, then to accrued, but unpaid interest, then to late charges. Principal only payments will be applied first to the amount of the scheduled Principal payment, then to any late charges.

Payments of Principal and interest will be applied first to interest that is due, then to principal that is due, then to escrow that is due, and finally to late charges that are due. If you and I agree to a different application of payments, we will describe our agreement on this Note. You may change how payments are applied in your sole discretion without notice to me. The actual amount of my final payment will depend on my payment record.

7. **PREPAYMENT.** I may prepay this loan under the following terms and conditions. A prepayment penalty of 2% of the original principal balance will be assessed if the note is paid in full during the first 24 months. Any partial prepayment will not excuse any later-scheduled payments until I pay in full.

**B. LOAN PURPOSE.** The purpose of this Loan is Purchase Kona Entertainment Vehicle.

9. **ADDITIONAL TERMS.** Borrower to provide tax returns to Osceola State Bank within 120 days after end of fiscal year. Personal Guarantors to provide annual financial statements to Osceola State Bank within 120 days after end of calendar year.

10. SECURITY. The Loan is secured by separate security instruments prepared together with this Note as follows:

John Doe  
Ohio Promissory Note  
01P4XX8HOLLY00000000002299017013122W

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Initials \_\_\_\_\_ Page 1





Document Name  
Security Agreement - John Doe

Parties to Document  
John Doe

Date of Security Document  
March 1, 2022

11. **LIMITATIONS ON CROSS-COLLATERALIZATION.** The cross-collateralization clause on any existing or future loan, but not including this Loan, is void and ineffective as to this Loan, including any extension or refinancing.

12. **DEFAULT.** I understand that you may demand payment anytime at your discretion. For example, you may demand payment in full if any of the following events (known separately and collectively as an Event of Default) occur:

- A. **Payments.** I fail to make a payment in full when due.
- B. **Insolvency or Bankruptcy.** The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me or any co-signer, endorser, surety or guarantor of this Note or any other obligations I have with you.
- C. **Death or Incompetency.** I die or am declared legally incompetent.
- D. **Failure to Perform.** I fail to perform any condition or to keep any promise or covenant of this Note.
- E. **Other Documents.** A default occurs under the terms of any other Loan Document.
- F. **Other Agreements.** I am in default on any other debt or agreement I have with you.
- G. **Misrepresentation.** I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.
- H. **Judgment.** I fail to satisfy or appeal any judgment against me.
- I. **Foreclosure.** The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- J. **Name Change.** I change my name or assume an additional name without notifying you before making such a change.
- K. **Property Transfer.** I transfer all or a substantial part of my money or property.
- L. **Property Value.** You determine in good faith that the value of the Property has declined or is impaired.
- M. **Insecurity.** You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Note or that the prospect for payment or performance of the Loan is impaired for any reason.

13. **DUE ON SALE OR ENCUMBRANCE.** You may, at your option, declare the entire balance of this Note to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law, as applicable.

14. **WAIVERS AND CONSENT.** To the extent not prohibited by law, I waive protest, presentment for payment, demand, notice of acceleration, notice of intent to accelerate and notice of disclaimer.

A. **Additional Waivers By Borrower.** In addition, I, and any party to this Note and Loan, to the extent permitted by law, consent to certain actions you may take, and generally waive defenses that may be available based on these actions or based on the status of a party to this Note.

- (1) You may renew or extend payments on this Note, regardless of the number of such renewals or extensions.
- (2) You may release any Borrower, endorser, guarantor, surety, accommodation maker or any other co-signer.
- (3) You may release, substitute or impair any Property securing this Note.
- (4) You, or any institution participating in this Note, may invoke your right of set-off.
- (5) You may enter into any sales, repurchases or participations of this Note to any person in any amounts and I waive notice of such sales, repurchases or participations.
- (6) I agree that any of us signing this Note as a Borrower is authorized to modify the terms of this Note or any instrument securing, guaranteeing or relating to this Note.
- (7) I agree that you may inform any party who guarantees this Loan of any Loan accommodations, renewals, extensions, modifications, substitutions or future advances.

B. **No Waiver By Lender.** Your course of dealing, or your forbearance from, or delay in, the exercise of any of your rights, remedies, privileges or right to insist upon strict performance of any provisions contained in this Note, or any other Loan Document, shall not be construed as a waiver by you, unless any such waiver is in writing and is signed by you.

15. **REMEDIES.** After default, you may at your option do any one or more of the following.

- A. **Acceleration.** You may make all or any part of the amount owing by the terms of this Note immediately due.
- B. **Sources.** You may use any and all remedies you have under state or federal law or in any Loan Document.
- C. **Insurance Benefits.** You may make a claim for any and all insurance benefits or refunds that may be available on my default.
- D. **Payments Made On My Behalf.** Amounts advanced on my behalf will be immediately due and may be added to the balance owing under the terms of this Note, and accrue interest at the highest post-maturity interest rate.
- E. **Attachment.** You may attach or garnish my wages or earnings.
- F. **Set-Off.** You may use the right of set-off. This means you may set-off any amount due and payable under the terms of this Note against any right I have to receive money from you.

My right to receive money from you includes any deposit or share account balance I have with you, any money owed to me on an item presented to you or in your possession for collection or exchange, and any repurchase agreement or other non-deposit obligation. "Any amount due and payable under the terms of this Note" means the total amount to which you are entitled to demand payment under the terms of this Note at the time you set-off.

Subject to any other written contract, if my right to receive money from you is also owned by someone who has not agreed to pay this Note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement.

Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to any individual retirement account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set-off against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

G. **Waiver.** Except as otherwise required by law, by choosing any one or more of those remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

16. **COLLECTION EXPENSES AND ATTORNEYS' FEES.** On or after the occurrence of an Event of Default, to the extent permitted by law, I agree to pay all expenses of collection, enforcement or protection of your rights and remedies under this Note or any other Loan Document. Expenses include (unless prohibited by law) reasonable attorneys' fees, court costs, and other legal expenses. Those expenses are due and payable immediately. If not paid immediately, these expenses will bear interest from the date of payment until paid in full at the highest interest rate in effect as provided for in the terms of this Note. All fees and expenses will be secured by the Property I have granted to you, if any. In addition, to the extent permitted by the United States Bankruptcy Code, I agree to pay the reasonable attorneys' fees incurred by you to protect your rights and interests in connection with any bankruptcy proceedings initiated by or against me.

17. **COMMISSIONS.** I understand and agree that you (or your affiliate) will earn commissions or fees on any insurance products, and may earn such fees on other services that I buy through you or your affiliate.

18. **WAIVER OF DEFENSES AND REPRESENTATIONS.** I have the right and authority to enter into this Note. The execution and delivery of this Note will not violate any agreement governing me or to which I am a party.

19. **INSURANCE.** I agree to obtain the insurance described in the Loan Agreement.

A. **Property Insurance.** I will insure or obtain insurance coverage on the Property and abide by the insurance requirements of any security instrument securing the Loan.

John Doe  
Ohio Promissory Note  
0164XXHOLLY0000000002299017013122N

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19. **Insurance Warranties.** I agree to purchase any insurance coverages that are required, in the amounts you require, as described in this or any other documents I sign for the Loan. I will provide you with continuing proof of coverage. I will buy or provide insurance from a firm licensed to do business in the State where the Property is located. If I buy or provide the insurance from someone other than you, the firm will be reasonably acceptable to you. I will have the insurance company name you as loss payee on any insurance policy. You will apply the insurance proceeds toward what I owe you on the outstanding balance. I agree that if the insurance proceeds do not cover the amounts I still owe you, I will pay the difference. I will keep the insurance until all debts secured by this agreement are paid. If I want to buy the insurance from you, I have signed a separate statement agreeing to this purchase.

20. **APPLICABLE LAW.** This Note is governed by the laws of Ohio, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Ohio, unless otherwise required by law.

21. **JOINT AND SEVERAL LIABILITY AND SUCCESSORS.** My obligation to pay the Loan is independent of the obligation of any other person who has also agreed to pay it. You may sue me alone, or anyone else who is obligated on the Loan, or any number of us together, to collect the Loan. Extending the Loan or new obligations under the Loan, will not affect my duty under the Loan and I will still be obligated to pay the Loan. This Note shall inure to the benefit of and be enforceable by you and your successors and assigns and shall be binding upon and enforceable against me and my successors and assigns.

22. **AMENDMENT, INTEGRATION AND SEVERABILITY.** This Note may not be amended or modified by oral agreement. No amendment or modification of this Note is effective unless made in writing. This Note and the other Loan Documents are the complete and final expression of the agreement. If any provision of this Note is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable. No present or future agreement securing any other debt I owe you will secure the payment of this Loan if, with respect to this loan, you fail to fulfill any necessary requirements or fail to conform to any limitations of the Truth in Lending Act (Regulation Z) or the Real Estate Settlement Procedures Act (Regulation X) that are required for loans secured by the Property or if, as a result, this loan would become subject to Section 67D of the John Warner National Defense Authorization Act for Fiscal Year 2007.

23. **INTERPRETATION.** Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Note.

24. **NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to the Borrower will be deemed to be notice to all Borrowers. I will inform you in writing of any change in my name, address or other application information. I will provide you any correct and complete financial statements or other information you request. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Loan and to confirm your lien status on any Property. Time is of the essence.

25. **CREDIT INFORMATION.** I agree to supply you with whatever information you reasonably request. You will make requests for this information without undue frequency, and will give me reasonable time to which to supply the information.

26. **ERRORS AND OMISSIONS.** I agree, if requested by you, to fully cooperate in the correction, if necessary, in the reasonable discretion of you or any and all loan closing documents so that all documents accurately describe the loan between you and me. I agree to assume all costs (including by way of illustration and not limitation, actual expenses, legal fees and marketing losses for failing to reasonably comply with your requests within thirty (30) days.

**CONFESSION OF JUDGMENT.** If I default, I authorize any attorney to appear in a court of record and confess judgment against me in favor of you. The confession of judgment may be without process and for any amount due on this Note including court fees, collection costs and reasonable attorneys' fees. This is in addition to other remedies.

27. **SIGNATURES.** By signing under seal, I agree to the terms contained in this Note. I also acknowledge receipt of a copy of this Note.

Solely for the warning directly below, "you" and "your" refer to each Borrower signing below.

**WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.**

**BORROWER:**

John Doe \_\_\_\_\_ Date \_\_\_\_\_ (Seal)

**LENDER:**

Osgood Bank

By \_\_\_\_\_ Date \_\_\_\_\_ (Seal)  
Sharon Lobo, Senior Lending Officer

John Doe  
Ohio Promissory Note  
OH-4XXXHOLLY0000000002299017013122N

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**GUARANTY**  
(Continuing Debt - Unlimited)

**DATE AND PARTIES.** The date of this Guaranty is January 31, 2022. The parties and their addresses are:

**LENDER:**

OSGOOD BANK  
275 W Main Street  
PO Box 69  
Osgood, OH 45361  
Telephone: (419) 582-2681

**BORROWER:**

JOHN DOE  
123 Anywhere Street  
Ft Lumsde, OH 45845

**GUARANTOR:**

JAMES DOE  
123 Anywhere  
New York, NY 10012

**1. DEFINITIONS.** As used in this Guaranty, the terms have the following meanings:

- A. **Pronouns.** The pronouns "I," "me" and "my" refer to all persons or entities signing this Guaranty, severally and together. "You" and "your" refer to the Lender.
- B. **Note.** "Note" refers to the document that evidences the Borrower's indebtedness, and any extensions, renewals, modifications and substitutions of the Note.
- C. **Property.** "Property" means any property, real, personal or mixed, that secures performance of the obligations of the Note, Debt, or this Guaranty.
- D. **Loan.** "Loan" refers to this transaction generally, including obligations and duties arising from the terms of all documents prepared or submitted for this transaction.
- E. **Loan Documents.** "Loan Documents" refer to all the documents executed as a part of or in connection with the Loan.

**2. SPECIFIC AND FUTURE DEBT GUARANTY.** For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and to induce you, at your option, to make loans or engage in any other transactions with the Borrower from time to time, I absolutely and unconditionally agree to all terms of and guaranty to you the payment and performance of each and every Debt of every type, purpose and description that the Borrower either individually among all or a portion of themselves, or with others, may now or at any time in the future owe you, including, but not limited to the following described Debt(s) including without limitation, all principal, accrued interest, attorneys' fees and collection costs, when allowed by law that may become due from the Borrower to you in collecting and enforcing the Debt and all other agreements with respect to the Borrower.

A promissory note or other agreement, No. TESTKONA, dated January 31, 2022, from John Doe (Borrower) to you, in the amount of \$120,200.00.

In addition, Debt refers to debts, liabilities and obligations of the Borrower (including, but not limited to, amounts agreed to be paid under the terms of any notes or agreements securing the payment of any debt, loan, liability or obligation, overdrafts, letters of credit, guarantees, advances for taxes, insurance, repairs and storage, and all extensions, renewals, refinancings and modifications of these debts) whether now existing or created or assumed in the future, and to become due, or absolute or contingent, including obligations and duties arising from the terms of all documents prepared or submitted for the transaction such as applications, security agreements, disclosures, and the Note.

You may, without notice, apply this Guaranty to such Debt of the Borrower as you may select from time to time.

**3. EXTENSIONS.** I consent to all renewals, extensions, modifications and substitutions of the Debt which may be made by you upon such terms and conditions as you may see fit from time to time without further notice to me and without limitation as to the number of renewals, extensions, modifications or substitutions.

**4. UNCONDITIONAL LIABILITY.** I am unconditionally liable under this Guaranty, regardless of whether or not you pursue any of your remedies against the Borrower, against any other maker, surety, guarantor or endorser of the Debt or against any Property. You may sue me alone, or anyone else who is obligated on this Guaranty, or any number of us together, to collect the Debt. My liability is not conditioned on the signing of this Guaranty by any other person and further is not subject to any condition not expressly set forth in this Guaranty or any instrument executed in connection with the Debt. My obligation to pay according to the terms of this Guaranty shall not be affected by the illegality, invalidity or unenforceability of any notes or agreements evidencing the Debt, the violation of any applicable state laws, federal, or any other circumstances which make the indebtedness unenforceable against the Borrower. I will remain obligated to pay on this Guaranty even if any other person who is obligated to pay the Debt, including the Borrower, has such obligation discharged in bankruptcy, foreclosure, or otherwise discharged by law.

**5. BANKRUPTCY.** If a bankruptcy petition should at any time be filed by or against the Borrower, the maturity of the Debt, so far as my liability is concerned, shall be accelerated and the Debt shall be immediately payable by me. I acknowledge and agree that this Guaranty, and the Debt secured hereby, will remain in full force and effect at all times, notwithstanding any action or undertakings by or against you or against any Property, in connection with any obligation or any proceeding in the United States Bankruptcy Courts. Such action or undertaking includes, without limitation, valuation of Property, election of remedies or imposition of secured or unsecured claim status upon claims by you, pursuant to the United States Bankruptcy Code, as amended. In the event that any payment of principal or interest received and paid by any other guarantor, borrower, surety, endorser or co-maker is deemed, by final order of a court of competent jurisdiction, to have been a voidable preference under the bankruptcy or insolvency laws of the United States or otherwise, then my obligation will remain as an obligation to you and will not be considered as having been discharged.

**6. REVOCATION.** I agree that this is an absolute and unconditional Guaranty. I agree that this Guaranty will remain binding on me, whether or not there are any Debts outstanding, until you have actually received written notice of my revocation or written notice of my death or incompetence. Notice of revocation or notice of my death or incompetence will not affect my obligations under this Guaranty with respect to any Debts incurred by or for which you have made a commitment to Borrower before you actually receive such notice, and all renewals, extensions, refinancings, and modifications of such Debts. I agree that if any other person signing this Guaranty provides a notice of revocation to you, I will still be obligated under this Guaranty until I provide such a notice of revocation to you. If any other person signing this Guaranty dies or is declared incompetent, such fact will not affect my obligations under this Guaranty.

**7. LIMITATIONS ON CROSS-COLLATERALIZATION.** The cross-collateralization clause on any existing or future loan, but not including this loan, is void and ineffective as to this loan, including any extension or refinancing.

**8. PROPERTY.** I agree that any Property may be assigned, exchanged, released in whole or in part or substituted without notice to me and without releasing, discharging or diminishing my liability. My obligation is absolute and your failure to perfect any security interest or any act or omission by you which impairs the Property will not relieve me or my liability under this Guaranty. You are under no duty to preserve or protect any Property until you are in actual or constructive possession. For purposes of this paragraph, you will only be in "actual" possession when you have physical, immediate and exclusive control over the Property and have accepted such control in writing. Further, you will only be deemed to be in "constructive" possession when you have both the power and intent to exercise control over the Property.

**9. DEFAULT.** I will be in default if any of the following events (known separately and collectively as an Event of Default) occur:

- A. **Payments.** I fail to make a payment in full when due.
- B. **Insolvency or Bankruptcy.** The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding against any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me, Borrower, or any co-signer, endorser, surety or guarantor of this Guaranty or any Debt.
- C. **Death or Incompetency.** I die or am declared legally incompetent.
- D. **Failure to Perform.** I fail to perform any condition or to keep any promise or covenant of this Guaranty.
- E. **Other Documents.** A default occurs under the terms of any other document relating to the Debt.
- F. **Other Agreements.** I am in default on any other debt or agreement I have with you.

James Doe  
Ohio Guaranty  
01F4XXH0LLY0000000002299017013122N

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Initials  
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G. Misrepresentation. I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.

H. Judgment. I fail to satisfy or appeal my judgment against me.

I. Forfeiture. The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.

J. Name Change. I change my name or assume an additional name without notifying you before making such a change.

K. Property Transfer. I transfer all or a substantial part of my money or property.

L. Property Value. You determine in good faith that the value of the Property has declined or is impaired.

M. Insolvency. You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Guaranty or that the prospect for payment or performance of the Debt is impaired for any reason.

10. **WAIVERS AND CONSENT.** To the extent not prohibited by law, I waive protest, presentment for payment, demand, notice of acceleration, notice of intent to accelerate and notice of dishonor.

A. **Additional Waivers.** In addition, to the extent permitted by law, I consent to certain actions you may take, and generally waive defenses that may be available based on these actions or based on the status of a party to the Debt or this Guaranty.

(1) You may renew or extend payments on the Debt, regardless of the number of such renewals or extensions.

(2) You may release any Borrower, endorser, guarantor, surety, accommodation maker or any other co-signer.

(3) You may release, substitute or impairing Property.

(4) You, or any institution participating in the Debt, may invoke your right of set-off.

(5) You may enter into any sales, repurchases or participations of the Debt to any person in any amounts and I waive notice of such sales, repurchases or participations.

(6) I agree that the Borrower is authorized to modify the terms of the Debt or any instrument securing, guarantying or relating to the Debt.

(7) You may undertake a valuation of any Property in connection with any proceedings under the United States Bankruptcy Code concerning the Borrower or me, regardless of any such valuation, or actual amounts received by you arising from the sale of such Property.

(8) I agree to consent to any waiver granted the Borrower, and agree that any delay or lack of diligence in the enforcement of the Debt, or any failure to file a claim or otherwise protect any of the Debt, in no way affects or impairs my liability.

(9) I agree to waive reliance on any anti-deficiency statutes, through subrogation or otherwise, and such statutes in no way affect or impair my liability. In addition, until the obligations of the Borrower to Lender have been paid in full, I waive any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any other right I may have to enforce any remedy which you now have or in the future may have against the Borrower or another guarantor or as to any Property.

Any Guarantor who is an "insider," as contemplated by the United States Bankruptcy Code, 11 U.S.C. 101, as amended, makes these waivers permanently. (An insider includes, among others, a director, officer, partner, or other person in control of the Borrower, a person or an entity that is a co-partner with the Borrower, an entity in which the Borrower is a general partner, director, officer or other person in control or a close relative of any of these other persons.) Any Guarantor who is not an insider makes these waivers until all Debt is fully repaid.

B. **No Waiver By Lender.** Your course of dealing, or your forbearance from, or delay in, the exercise of any of your rights, remedies, privileges or right to insist upon my strict performance of any provisions contained in the Debt instruments, shall not be construed as a waiver by you, unless any such waiver is in writing and is signed by you.

C. **Waiver of Claims.** I waive all claims for loss or damage caused by your acts or omissions where you acted reasonably and in good faith.

11. **REMEDIES.** After the Borrower or I default, you may at your option do any one or more of the following.

A. **Acceleration.** You may make all or any part of the amount owing by the terms of this Guaranty immediately due.

B. **Suances.** You may use any and all remedies you have under state or federal law or in any documents relating to the Debt.

C. **Insurance Benefits.** You may make a claim for any and all insurance benefits or refunds that may be available on default.

D. **Payments Made on the Borrower's Behalf.** Amounts advanced on the Borrower's behalf will be immediately due and may be added to the balance owing under the Debt.

E. **Attachment.** You may attach or garnish my wages or earnings.

F. **Set-Off.** You may use the right of set-off. This means you may set-off any amount due and payable under the terms of this Guaranty against any right I have to receive money from you.

My right to receive money from you includes any deposit or share account balance I have with you, any money owed to me on an item presented to you or in your possession for collection or exchange and any repurchase agreement or other repurchase obligation. "Any amount due and payable under the terms of this Guaranty" means the total amount to which you are entitled to demand payment under the terms of this Guaranty at the time you set-off.

Subject to any other written contract, if my right to receive money from you is also owed by someone who has not agreed to pay the Debt, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement.

Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set-off against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

G. **Waiver.** Except as otherwise required by law, by choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

12. **COLLECTION EXPENSES AND ATTORNEYS' FEES.** On or after the occurrence of an Event of Default, to the extent permitted by law, I agree to pay all expenses of collection, enforcement or protection of your rights and remedies under this Guaranty or any other document relating to the Debt. To the extent permitted by law, expenses include, but are not limited to, reasonable attorneys' fees, court costs and other legal expenses. All fees and expenses will be secured by the Property I have granted to you, if any. In addition, to the extent permitted by the United States Bankruptcy Code, I agree to pay the reasonable attorneys' fees earned by you to protect your rights and interests in connection with any bankruptcy proceedings initiated by or against me.

13. **WARRANTIES AND REPRESENTATIONS.** I have the right and authority to enter into this Guaranty. The execution and delivery of this Guaranty will not violate any agreement governing me or to which I am a party.

In addition, I represent and warrant that this Guaranty was entered into at the request of the Borrower, and that I am satisfied regarding the Borrower's financial condition and existing indebtedness, authority to borrow and the use and intended use of all Debt proceeds. I further represent and warrant that I have not relied on any representations or omissions from you or any information provided by you respecting the Borrower, the Borrower's financial condition and existing indebtedness, the Borrower's authority to borrow or the Borrower's use and intended use of all Debt proceeds.

14. **RELIANCE.** I acknowledge that you are relying on this Guaranty in extending credit to the Borrower, and I have signed this Guaranty to induce you to extend such credit. I represent and warrant to you that I expect to derive substantial benefits from any loans and financial accommodations resulting at the direction of indebtedness guaranteed hereby. I agree to rely exclusively on the right to revoke this Guaranty prospectively as to future transactions in the manner as previously described in this Guaranty if at any time, in my opinion, the benefits then being received by me in connection with this Guaranty are not sufficient to warrant the continuance of this Guaranty. You may rely conclusively on a continuing warranty that I continue to be benefited by this Guaranty and you will have no duty to inquire into or concern the receipt of any such benefits, and this Guaranty will be effective and enforceable by you without regard to the receipt, payment or value of any such benefits.

15. **APPLICABLE LAW.** This Guaranty is governed by the laws of Ohio, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Ohio, unless otherwise required by law.

16. **AMENDMENT, INTEGRATION AND SEVERABILITY.** This Guaranty may not be amended or modified by oral agreement. No amendment or modification of this Guaranty is effective unless made in writing. This Guaranty and the other Loan Documents are the complete and final expression of the agreement. If any provision of this Guaranty is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

17. **ASSIGNMENT.** If you assign any of the Debts, you may assign all or any part of this Guaranty without notice to me or my consent, and this Guaranty will have to the benefit of your assignee to the extent of such assignment. You will continue to have the unimpaired right to enforce this Guaranty as to any of the Debts that are not assigned. This Guaranty shall inure to the benefit of and be enforceable by you and your successors and assigns and any other person to whom you may grant an interest in the Debts and shall be binding upon and enforceable against me and my personal representatives, successors, heirs and assigns.

James Doe  
Ohio Guaranty  
01F4XXH0LLY0000000002299017013122N

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Page 2



18. **INTERPRETATION.** Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Guaranty.

19. **NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND INITIALS section, or to any other address designated in writing. Notice to one Guarantor will be deemed to be notice to all Guarantors. I will inform you in writing of any change in my name, address or other application information. I will provide you any correct and complete financial statements or other information you request. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Guaranty and to confirm your lien status on any Property. Time is of the essence.

20. **CREDIT INFORMATION.** I agree that from time to time you may obtain credit information about me from others, including other lenders and credit reporting agencies, and report to others (such as a credit reporting agency) your credit experience with me. I agree that you will not be liable for any claim arising from the use of information provided to you by others or for providing such information to others.

**CONFESSION OF JUDGMENT.** If I default, I authorize any attorney to appear in a court of record and confess judgment against me in favor of you. The confession of judgment may be without process and for any amount due on this Guaranty including court fees, collection costs and reasonable attorneys' fees. This is in addition to other remedies.

21. **SIGNATURES.** By signing under seal, I agree in the terms contained in this Guaranty. I also acknowledge receipt of a copy of this Guaranty.

Solely for the warning directly below, "you" and "your" refer to each Guarantor signing below.

**WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.**

**GUARANTOR:**

James Doe

Date

(Seal)

**LENDER:**

Osprey Bank

By

Sharon Lobo, Senior Lending Officer

Date

(Seal)

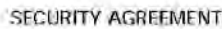
James Doe  
Ohio Guaranty  
OH4XXXHOLLY0000000002299017013122N

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Initials \_\_\_\_\_  
Page 3

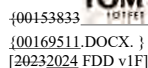


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JOHN DOE  
123 Anywhere Street  
P. Lorain, OH 45845

Initials \_\_\_\_\_ Page 1





(D) Additional Duties Specific to Motor Vehicles, Sport Craft, or Trailers. So long as I am not in default under this Agreement, the Motor Vehicle, Sport Craft, or Trailer portion of the Property will not be restricted to a specific location and may be moved as necessary during ordinary use. However, they may not be taken out of state permanently nor outside the United States or Canada without your prior written consent.

7. **INSURANCE.** I agree to keep the Property insured against the risks reasonably associated with the Property. I will maintain this insurance in the amounts you require. This insurance will last until the Property is released from this Agreement. I may choose the insurance company, subject to your approval, which will not be unreasonably withheld.

I will have the insurance company name you as loss payee on any insurance policy. I will give you and the insurance company immediate notice of any loss. You may apply the insurance proceeds toward what is owed on the Secured Debts. You may require added security as a condition of permitting any insurance proceeds to be used to repair or replace the Property.

If you acquire the Property in damaged condition, my right to any insurance policies and proceeds will pass to you to the extent of the Secured Debts.

I will immediately notify you of cancellation or termination of insurance. If I fail to keep the Property insured, you may obtain insurance to protect your interest in the Property and I will pay for the insurance on your demand. You may demand that I pay for the insurance all at once, or you may add the insurance premiums to the balance of the Secured Debts and charge interest on it at the rate that applies to the Secured Debts. This insurance may include lesser or greater coverages than originally required of me, may be written by a company other than one I would choose, and may be written at a higher rate than I could obtain if I purchased the insurance. This insurance coverage does not satisfy any liability or property insurance that may be mandated by applicable state or federal law. I acknowledge and agree that you or one of your affiliates may receive commissions on the purchase of this insurance.

8. **COLLECTION RIGHTS OF THE SECURED PARTY.** Account Debtor means the person who is obligated on an account, chattel paper, or general intangibles. I authorize you to notify my Account Debtors of your security interest and to deal with the Account Debtors' obligations at your discretion. You may enforce the obligations of an Account Debtor, exercising any of my rights with respect to the Account Debtors' obligations to make payment or otherwise render performance to me, including the enforcement of any security interest that secures such obligations. You may apply proceeds received from the Account Debtors to the Secured Debts or you may release such proceeds to me.

I specifically and irrevocably authorize you to exercise any of the following powers at my expense, without limitation, until the Secured Debts are paid in full:

- demand payment and enforce collection from my Account Debtor or Obligor by suit or otherwise;
- enforce any security interest, lien or encumbrance given to secure the payment or performance of any Account Debtor or any obligation constituting Property;
- file proofs of claim or similar documents in the event of bankruptcy, insolvency or death of any person obligated as an Account Debtor;
- compromise, release, extend, or exchange any indebtedness of an Account Debtor;
- take control of any proceeds of the Account Debtors' obligations and any return or repossessed goods;
- enforce all payments by any Account Debtor which may come into your possession as payable to me;
- deal in all respects as the holder and owner of the Account Debtors' obligations.

9. **AUTHORITY TO PERFORM.** I authorize you to do anything you deem reasonably necessary to protect the Property, and perfect and continue your security interest in the Property. If I fail to perform any of my duties under this Agreement or any other Loan Document, you are authorized, without notice to me, to perform the duties or cause them to be performed.

These authorizations include, but are not limited to, permission to:

- pay and discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Property;
- pay any debts or other charges which may be affecting the Property;
- order and pay for the repair, maintenance and preservation of the Property;
- file any financing statements on my behalf and pay for filing and recording fees pertaining to the Property;
- place a lien on any chattel paper indicating your interest in the Property;
- take any action you feel necessary to realize on the Property, including performing any part of a contract or encumbering it in my name;
- handle any suits or other proceedings involving the Property in my name;
- prepare, file, and sign my name in any necessary reports or accountings;
- make an entry on my books and records showing the existence of this Agreement;
- notify any Account Debtor or Obligor of your interest in the Property and tell the Account Debtor or Obligor to make payments to you or someone else you name.

If you perform for me, you will use reasonable care. If you exercise the care and follow the procedures that you generally apply to the collection of obligations owed to you, you will be deemed to be using reasonable care. Reasonable care will not include: any steps necessary to preserve rights against prior parties; the duty to send notices, perform services or take any other action in connection with the management of the Property; or the duty to protect, preserve or maintain any security interest given to others by me or other parties. Your authorization to perform for me will not create an obligation to perform and your failure to perform will not preclude you from exercising any other rights under the law or this Loan Agreement. All cash and non-cash proceeds of the Property may be applied by you only upon your actual receipt of cash proceeds against such of the Secured Debts, matured or unmatured, as you determine in your sole discretion.

If you come into actual or constructive possession of the Property, you will preserve and protect the Property. For purposes of this paragraph, you will be in actual possession of the Property only when you have physical, immediate and exclusive control over the Property and you have affirmatively accepted that control. You will be in constructive possession of the Property only when you have both the power and the intent to exercise control over the Property.

10. **DEFAULT.** I will be in default if any of the following events (known separately and collectively as an Event of Default) occur:

- Payments. I fail to make a payment in full when due.
- Insolvency or Bankruptcy. The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me, Obligor, or any co-signer, endorser, surety or guarantor of this Agreement or any other obligations Obligor has with you.
- Death or Incompetency. I die or am declared legally incompetent.
- Failure to Perform. I fail to perform any condition or to keep any promise or covenant of this Agreement.
- Other Documents. A default occurs under the terms of any other Loan Document.
- Other Agreements. I am in default on any other debt or agreement I have with you.
- Misrepresentation. I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.
- Judgment. I fail to satisfy or appeal any judgment against me.
- Forfeiture. The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- Name Change. I change my name or assume an additional name without notifying you before making such a change.
- Property Transfer. I transfer all or a substantial part of my money or property.
- Property Value. You determine in good faith that the value of the Property has declined or is impaired.
- Insecurity. You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Agreement or that the prospect for payment or performance of the Secured Debts is impaired for any reason.

11. **DUE ON SALE OR ENCUMBRANCE.** You may, at your option, declare the entire balance of this Agreement to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law, as applicable.

12. **REMEDIES.** After I default, you may at your option do any one or more of the following:

- Acceleration. You may make all or any part of the amount owing by the terms of the Secured Debts immediately due.
- Suorces. You may use any and all remedies you have under state or federal law or in any Loan Document.
- Insurance Benefits. You may make a claim for any and all insurance benefits or refunds that may be available on my default.

D. **Payments Made On My Behalf.** Amounts advanced on my behalf will be immediately due and may be added to the Secured Debts.

E. **Attachment.** You may attach or garnish my wages or earnings.

F. **Assembly of Property.** You may require me to gather the Property and make it available to you in a reasonable fashion.

G. **Repossession.** You may repossess the Property so long as the repossession does not involve a breach of the peace. You may sell, lease or otherwise dispose of the Property as provided by law. You may apply what you receive from the disposition of the Property to your expenses, your attorneys' fees and legal expenses (where not prohibited by law), and any debt I owe you. If what you receive from the disposition of the Property does not satisfy the debt, I will be liable for the deficiency (where permitted by law). In some cases, you may keep the Property to satisfy the debt.

Where a notice is required, I agree that ten days prior written notice sent by first class mail to my address listed in this Agreement will be reasonable notice to me under the Ohio Uniform Commercial Code. If the Property is perishable or threatens to decline speedily in value, you may, without notice to me, dispose of any or all of the Property in a commercially reasonable manner at any expense following any commercially reasonable preparation or processing (where permitted by law).

If any items not otherwise subject to this Agreement are contained in the Property when you take possession, you may hold these items for me at my risk and you will not be liable for taking possession of them (where permitted by law).

H. **Use and Operation.** You may enter upon my premises and take possession of all or any part of my property for the purpose of preserving the Property or its value, so long as you do not breach the peace. You may use and operate my property for the length of time you feel is necessary to protect your interest, all without payment or compensation to me.

I. **Waiver.** By choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

13. **WAIVER OF CLAIMS.** I waive all claims for loss or damage caused by your acts or omissions where you acted reasonably and in good faith.

14. **PERFECTION OF SECURITY INTEREST AND COSTS.** I authorize you to file a financing statement and/or security agreement, as appropriate, covering all of my personal Property. I will comply with, facilitate, and otherwise assist you in connection with obtaining perfection or control over the Property for purposes of perfecting your security interest under the Uniform Commercial Code. I agree to pay all taxes, fees and costs you pay or incur in connection with preparing, filing or recording any financing statements or other security interest filings on the Property. I agree to pay all actual costs of terminating your security interest.

15. **APPLICABLE LAW.** This Agreement is governed by the laws of Ohio, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Ohio, unless otherwise required by law.

16. **JOINT AND SEVERAL LIABILITY AND SUCCESSORS.** Each debtor's obligations under this Agreement are independent of the obligations of any other Debtor. You may sue each Debtor individually or together with any other Debtor. You may release any part of the Property and I will still be obligated under this Agreement for the remaining Property. Debtor agrees that you and any party to this Agreement may extend, modify or make any change in the terms of this Agreement or any evidence of debt without Debtor's consent. Such a change will not release Debtor from the terms of this Agreement. If you assign any of the Secured Debts, you may assign all or any part of this Agreement without notice to me or my consent, and this Agreement will inure to the benefit of your assignee to the extent of such assignment. You will continue to have the unimpaired right to enforce this Agreement as to any of the Secured Debts that are not assigned. This Agreement shall inure to the benefit of and be enforceable by you and your successors and assigns and any other person to whom you may grant an interest in the Secured Debts and shall be binding upon and enforceable against me and my successors and assigns.

17. **AMENDMENT, INTEGRATION AND SEVERABILITY.** This Agreement may not be amended or modified by oral agreement. An amendment or modification of this Agreement is effective unless made in writing. This Agreement and the other Loan Documents are the complete and final expression of the understanding between you and me. If any provision of this Agreement is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

18. **INTERPRETATION.** Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Agreement.

19. **NOTICE AND ADDITIONAL DOCUMENTS.** Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Debtor will be deemed to be notice to all Debtors. I will inform you in writing of any change in my name, address or other application information. I will provide you any other, correct and complete information you request to effectively grant a security interest on the Property. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Agreement and to confirm your lien status on my Property. Time is of the essence.

**CONFESSION OF JUDGMENT.** If I default, I authorize any attorney to appear in a court of record and confess judgment against me in favor of you. The confession of judgment may be without process and for any amount due on the Secured Debts including court fees, collection costs and reasonable attorneys' fees. **This is in addition to other remedies.**

**SIGNATURES.** By signing under seal, I agree to the terms contained in this Agreement. I also acknowledge receipt of a copy of this Agreement. Solely for the meaning directly below, "you" and "your" refer to each Debtor signing below.

**WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.**

DEBTOR:

John Doe \_\_\_\_\_ Date \_\_\_\_\_ (Seal)

SECURED PARTY:

Assigned Bank

By \_\_\_\_\_ Date \_\_\_\_\_ (Seal)  
Sharon Lobo, Senior Lending Officer

John Doe  
Ohio Security Agreement  
0164XXHOLLY0000000002299017013122N

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Page 3

**EXHIBIT HI-10**

**AUTOMATED CLEARING HOUSE PAYMENT AUTHORIZATION FORM**

**Franchisee Information:**

Franchisee Name	Business No.
Franchisee Mailing Address (street)	Franchisee Phone No.
Franchisee Mailing Address (city, state, zip)	
Contact Name, Address and Phone number (if different from above)	
Franchisee Fax No.	Franchisee E-mail Address

**Bank Account Information:**

Bank Name		
Bank Mailing Address (street, city, state, zip)		
<input type="checkbox"/> Checking <input type="checkbox"/> Savings		
Bank Account No.	(check one)	Bank Routing No. (9 digits)
Bank Mailing Address (city, state, zip)		Bank Phone No.

**Authorization:**

Franchisee hereby authorizes Mobile Coffee Company, LLC (“Franchisor”) to initiate debit entries to Franchisee’s account with the Bank listed above, and Franchisee authorizes the Bank to accept and to debit the amount of such entries to Franchisee’s account. Each debit shall be made from time to time in an amount sufficient to cover any fees payable to Franchisor pursuant to any agreement between Franchisor and Franchisee as well as to cover any purchases of goods or services from Franchisor or any affiliate of Franchisor. Franchisee agrees to be bound by the National Automated Clearing House Association (NACHA) rules in the administration of these debit entries. Debit entries will be initiated only as authorized above. This authorization is to remain in full force and effect until Franchisor has received written notification from Franchisee of its termination in such time and in such manner as to afford Franchisor and the Bank a reasonable opportunity to act on it. Franchisee shall notify Franchisor of any changes to any of the information contained in this authorization form at least 30 days before such change becomes effective.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Federal Tax ID Number: \_\_\_\_\_

Rev. 032916

**NOTE: FRANCHISEE MUST ATTACH A VOIDED CHECK RELATING TO THE BANK ACCOUNT.**



**EXHIBIT HI-11**

**TRAVELIN' TOM'S COFFEE FRANCHISE**

**SAMPLE ASSET PURCHASE AGREEMENT**

This Asset Purchase Agreement (“Agreement”) is entered into as of \_\_\_\_\_, 20\_\_ (“Effective Date”), by and among \_\_\_\_\_ a \_\_\_\_\_ and its owners, \_\_\_\_\_ (together, the “Franchisee”), and Mobile Coffee Company, LLC, a Delaware limited liability company (“MC”). Franchisee and MC shall each be a “Party” and collectively, the “Parties”.

**RECITALS**

**WHEREAS:** Franchisee, entered into a franchise agreement with MC. dated \_\_\_\_\_, 20\_\_ (“Franchise Agreement”) to operate a Travelin’ Tom’s Coffee business;

**WHEREAS:** (the Franchise Agreement is being terminated/is expiring/is being transferred) and Franchisor is exercising its right of first refusal to purchase certain Assets (as defined below) of Franchisee; and

**WHEREAS,** subject to the terms and conditions of the Franchise Agreement and those contained herein, Franchisee has agreed to sell, convey, assign, transfer and deliver to MC, and MC has agreed to purchase and accept delivery of, all of Franchisee’s rights, title and interest in and to the Assets (as defined below);

**NOW, THEREFORE,** in consideration of the promises, agreements, covenants, and representations contained herein, and other good and valuable consideration, the receipt and sufficiency of which is thereby acknowledged, the Parties agree as follows:

**I. Purchase and Sale of Assets; Purchase Price.**

A. Subject to the provisions set forth herein, Franchisee hereby sells, conveys, assigns, transfers and sets over unto MC all of Franchisee’s right, title and interest in, to and under the assets set forth on Attachment 1 (“Assets”) free and clear of any and all liens, in exchange for the Purchase Price (as hereinafter defined), and MC hereby accepts such conveyance, assignment, transfer and delivery.

B. As consideration for the transfer of the Assets by Franchisee to MC, MC shall pay to Franchisee funds in the amount of the aggregate purchase price for the Assets set forth on Attachment 1 (“Purchase Price”), by wire transfer of immediately available funds. Franchisee and MC agree to allocate the Purchase Price among the Assets for all purposes in accordance with Attachment 1.

C. Franchisee shall transfer title to the Assets to MC, free and clear of any and all liens or encumbrances, simultaneously with receipt of MC’s payment(s) of the Purchase Price to Franchisee, and upon receipt of this Agreement.

**II. MC’s Assumption of Liabilities.** MC hereby assumes any liabilities related to the Assets arising from and after the Effective Date. Franchisee agrees to maintain insurance on the Assets until all assets are in the possession of MC. Risk of loss transfers only upon actual delivery of the Assets to MC. This Agreement remains contingent upon the Assets being as represented by Franchisee, namely, in

reasonably good condition, as determined in MC's reasonable discretion, considering factors such as age and mileage.

III. Representations and Warranties.

A. Franchisee hereby represents and warrants to MC, as of the Effective Date, as follows:

1. Franchisee is a \_\_\_\_\_, validly existing under the laws of the State of \_\_\_\_\_.

2. Franchisee has valid, good and marketable title to the Assets and such Assets are transferred free and clear of all liens. Franchisee has the unrestricted right to transfer, assign, convey and delivery to MC all right, title and interest in and to the Assets.

3. Franchisee has the requisite power, authority and legal capacity to execute, deliver and perform this Agreement and to consummate the transactions contemplated herein. Franchisee has taken all necessary action to authorize the execution, delivery and performance of this Agreement.

4. The execution, delivery and performance by Franchisee of this Agreement constitute the legal, valid and binding obligations of Franchisee enforceable against it in accordance with its terms, and the consummation by Franchisee of the transactions contemplated herein do not and will not violate or conflict in any way with any provision of Franchisee's articles of incorporation or bylaws.

5. Franchisee or its owner(s) has prepared in a correct and complete (in all material respects) manner and filed all federal, state, county, local, and foreign tax returns and reports (including but not limited to, sales taxes, use taxes, payroll taxes, unemployment insurance and business personal property taxes, each a "Tax" and collectively, the "Taxes") heretofore required to be filed by Franchisee and have paid all taxes shown as due thereon along with any fine, penalty, interest, late charge or loss owed thereunder; and no taxing authority has asserted any deficiency in the payment of any Tax or informed Franchisee that it intends to assert any such deficiency or to make any audit or other investigation of Franchisee for the purpose of determining whether such a deficiency should be asserted against Franchisee. There are no encumbrances, nor to Franchisee's knowledge will there be any encumbrances in the future, on any of the Assets that arose in connection with any failure (or alleged failure) to pay any Tax.

B. MC represents and warrants to Franchisee, as of the date hereof, as follows:

1. MC is a corporation validly existing under the laws of the State of Kentucky.

2. MC has the requisite power, authority and legal capacity to execute, deliver and perform this Agreement and to consummate the transactions contemplated herein. MC has taken all necessary action to authorize the execution, delivery and performance of this Agreement.

3. The execution, delivery and performance by MC of this Agreement constitute the legal, valid and binding obligations of MC enforceable against it in accordance with its terms, and the consummation by MC of the transactions contemplated herein do not and will not violate or conflict in any way with any provision of MC's certificate of formation or limited liability company agreement.

C. All representations and warranties contained in this Agreement shall survive the execution and delivery of this Agreement for the applicable statute of limitations period.

IV. Franchisee's Obligations. On the Effective Date, Franchisee shall deliver to MC the following:

A. A Bill of Sale attached hereto as Attachment 2 for all equipment and any such other documents as MC may reasonably request in order to accomplish the sale of the Assets to MC, all of which shall be (i) duly executed by Franchisee (and/or its owner(s)) and (ii) in form and substance reasonably satisfactory to MC.

B. Receipt or other evidence acceptable to MC that all Taxes have been paid in full prior to the Effective Date.

C. Such other documents as are reasonably requested by MC in order to effect the transfer of Assets described in this Agreement.

V. Miscellaneous

A. This Agreement represents the full and complete agreement of the Parties with respect to the subject matter hereof, and this Agreement supersedes and replaces any prior agreements, whether oral or written. Any amendments or modifications of this Agreement must be in writing and executed by both Parties.

B. This Agreement shall be construed and interpreted under the laws (without reference to choice or conflict of laws) of the State of Kentucky, and resolution of any claims thereunder shall be as set forth in the Franchise Agreement.

C. If one or more provisions of this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect or impair any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

D. This Agreement may be executed in counterparts and by different Parties on different counterparts with the same effect as if the signatures thereto were on the same instrument. This Agreement shall be effective and binding upon all Parties thereto as of the date when all Parties have executed a counterpart of this Agreement.

E. Each Party agrees that it has had ample opportunity to confer with legal counsel of its choice and each shall pay its own costs incurred therein. The Parties acknowledge that there can be different state requirements regarding titles, taxes, and escrow and agree that they have investigated such requirements as they may relate to the transaction contemplated herein and have provided for them in this Agreement as may be necessary.

F. Each individual and entity that comprises Franchisee shall be jointly and severally liable for the obligations of Franchisee.

G. In the event that it shall be necessary for any Party to institute legal action to enforce or for the breach of any of the terms and conditions or provisions of this Agreement, the prevailing Party in such action shall be entitled to recover all of its reasonable costs and attorneys' fees.

H. At any time and from time to time after the Effective Date: (a) Franchisee shall execute and deliver or cause to be executed and delivered to MC such other instruments and take such other action, all as MC may reasonably request, in order to carry out the intent and purpose of this



Agreement; and (b) MC shall execute and deliver or cause to be executed and delivered to Franchisee such other instruments and take such other action, all as Franchisee may reasonably request, in order to carry out the intent and purpose of this Agreement.

I. Each Party agrees that the terms of this Agreement shall remain confidential.

IN WITNESS WHEREOF, each of the Parties thereto has caused this Agreement to be duly executed to be effective as of the Effective Date written above.

**FRANCHISEE:**

\_\_\_\_\_

\_\_\_\_\_

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

Its: \_\_\_\_\_

\_\_\_\_\_

**MOBILE COFFEE COMPANY,**

**LLCCOM**

\_\_\_\_\_

\_\_\_\_\_

By: Tony Lamb

Its: CEO

**~~OWNERS~~**

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

=

\_\_\_\_\_

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

**ATTACHMENT 1**

**ASSETS AND PURCHASE PRICE**

**ASSETS:**

**PURCHASE PRICE AND ALLOCATION:**

## ATTACHMENT 2

### **BILL OF SALE**

THIS BILL OF SALE ("Bill of Sale") is effective as of 12:01 a.m. on \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ ("Seller") and Mobile Coffee Company, LLC, a Delaware limited liability company ("Purchaser"). Purchaser and Seller may each be referred to herein as a "Party".

Seller and Purchaser are parties to that certain Asset Purchase Agreement dated \_\_\_\_\_, 20\_\_ ("Purchase Agreement"), pursuant to which Seller has agreed to sell the Assets to Purchaser and Purchaser has agreed to purchase the Assets from Seller. Capitalized terms used but not defined herein have the meanings ascribed to them in the Purchase Agreement.

The Parties, intending to be legally bound, agree as follows:

1. For true and lawful consideration, the sufficiency of which is hereby acknowledged, Seller hereby sells, assigns, transfers, conveys and delivers to Purchaser, its successors and assigns, to have and to hold forever, all of Seller's right, title and interest in and to the Assets referenced in the Purchase Agreement.

2. The sale, assignment, transfer, conveyance and delivery of the Assets under this Bill of Sale is subject to and in accordance with the provisions of the Purchase Agreement and its Attachments and is not intended to and does not expand, limit, alter or modify the rights and obligations of the parties thereunder. In the event of any conflict or inconsistency between the terms of the Purchase Agreement and the terms hereof, the terms of the Purchase Agreement shall govern.

3. If any provision of this Bill of Sale is held invalid or unenforceable by any court of competent jurisdiction, it is the intent of the Parties that all other provisions of this Bill of Sale be construed to remain fully valid, enforceable, and binding on the parties. This Bill of Sale shall be governed by and construed in accordance with the laws of the State of Kentucky, without giving effect to any conflict of laws principles. This Bill of Sale may be executed in several counterparts, and each executed counterpart shall be considered an original.

IN WITNESS WHEREOF, Seller and Purchaser have each signed this Bill of Sale as of the day and year first set forth above.

**SELLER:**

\_\_\_\_\_

\_\_\_\_\_

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

Its: \_\_\_\_\_

**PURCHASER: MOBILE COFFEE  
COMPANY, LLC**

\_\_\_\_\_

By: Tony Lamb

Its: CEO

## EXHIBIT H-12

### TRAVELIN' TOM'S COFFEE FRANCHISE

#### FRANCHISE AGREEMENT TRANSFER ADDENDUM

This Franchise Agreement Transfer Addendum (“**Transfer Addendum**”) is made and entered into as of [date] (“**Effective Date**”), by and between MOBILE COFFEE COMPANY, LLC, a Delaware limited liability company (“**Franchisor**”) and [Entity Name], d/b/a [“**DBA Name**”], a(n) [state] [type of entity] (“**Franchisee**”) (each, a “**Party**” and together, the “**Parties**”).

#### BACKGROUND

- A. Franchisor and Franchisee are parties to a Franchise Agreement (“**Franchise Agreement**”) [dated/dated as of] [date] as a result of an approved transfer of a franchised business of Franchisor (“**Franchised Business**”).
- B. Franchisor and Franchisee desire to amend the Franchise Agreement to reflect Franchisee’s status as a transferee franchisee for the Franchised Business.
- C. All capitalized terms not otherwise defined in this Transfer Addendum shall have the meanings set forth in the Franchise Agreement.

#### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties and subject to the following terms and conditions, it is agreed as follows:

- 1. Franchisor and Franchisee agree that because the Franchised Business is already open and operating and being acquired via a transfer, Franchisee and Franchisor shall be relieved of performing certain pre-opening and development obligations set forth in the Franchise Agreement. Specifically:
  - a. Franchisee has already acquired the truck and, if applicable, additional equipment (“**Assets**”) under Section ~~3-B~~13.13 of the Franchise Agreement upon transfer of the Franchised Business. Section ~~3-B~~13.13 of the Franchise Agreement is hereby amended accordingly. If any equipment is required for the Assets as set forth in Section ~~3-B~~13.13 of the Franchise Agreement, Franchisee agrees to purchase such items from Franchisor prior to operating the Assets.
  - b. Because Franchisee is a transferee franchisee, Franchisee shall not be required to pay the Initial Franchise Fee. Section ~~4-A~~6.6 of the Franchise Agreement is hereby amended accordingly.
  - c.—If Franchisee is an existing franchisee under the Travelin’ Tom’s Coffee System, Franchisee shall not be required to attend Initial Training and there shall be no Initial Training Deadline. Accordingly, Franchisor is under no obligation to provide Initial Training to Franchisee. If Franchisee is not an existing franchisee under the Travelin’ Tom’s Coffee System, Franchisee shall complete the initial training program contained in Item 11 and Franchise Agreement Section ~~5~~8 prior to beginning operation of the Travelin’ Tom’s Coffee franchise. Notwithstanding the foregoing, any successor

Designated Manager must attend Initial Training and additional persons may attend the Initial Training in accordance with the terms of the Franchise Agreement; such Designated Managers and/or additional persons shall be required to pay for hotel and transportation costs associated with attending Initial Training. Section ~~5.A8~~ of the Franchise Agreement is hereby amended accordingly;

~~d.c. Section 3.F(3) is hereby deleted and replaced with "Intentionally left blank."~~

2. This Transfer Addendum constitutes the entire and complete agreement between Franchisor and Franchisee concerning the subject matter hereof, and supersedes any and all prior agreements. No amendment, change, or variance from this Transfer Addendum shall be binding on either party unless mutually agreed to in a writing signed by both parties.
3. This Transfer Addendum forms an integral part of the Franchise Agreement. The terms of this Transfer Addendum shall control if they conflict with the terms of the Franchise Agreement. Except as modified or supplemented by this Transfer Addendum, the terms of the Franchise Agreement are hereby ratified and confirmed.

**IN WITNESS WHEREOF**, the Parties have executed this Transfer Addendum as of the day and year first written above.

[FULL ENTITY NAME]

MOBILE COFFEE COMPANY, LLC

\_\_\_\_\_  
By: [Signing Owner's Name]  
Its: [Title of Signing Owner]

\_\_\_\_\_  
By: Tony Lamb  
Its: CEO

EXHIBIT H-13

**SAMPLE ADDITIONAL EQUIPMENT AMENDMENT TO FRANCHISE AGREEMENT**

This Amendment is made and entered into as of the effective date listed in the signature block (“**Effective Date**”) by and between Mobile Coffee Company, LLC, a Delaware limited liability company (“**Franchisor**”) and the Franchisee identified on the signature block below (“**Franchisee**”), with reference to the following facts:

- A. The parties have entered into a Travelin’ Tom’s Coffee franchise agreement pursuant to which Franchisee will operate a Travelin’ Tom’s Coffee Franchise (“**Franchise Agreement**”).
- B. Subject to the conditions of the Franchise Agreement, Franchisee has the option to purchase additional Travelin’ Tom’s Coffee equipment (“**Additional Equipment**”) for use in the Franchisee’s Protected Territory.
- C. The parties hereto desire to amend the Franchise Agreement as set forth herein. Unless defined herein, all capitalized terms used herein shall have the meaning in the Franchise Agreement.

NOW, THEREFORE, for and in consideration of the covenants, warranties, and mutual agreements contained herein, the parties hereto agree as follows:

1. **ADDITIONAL EQUIPMENT.** Franchisee desires to purchase the following Additional Equipment for use in the Protected Territory and shall pay the Additional Equipment Royalty listed for such equipment under the Franchise Agreement and this Amendment for so long as Franchisee owns the Additional Equipment.

Equipment	Purchase Amount	Additional Equipment Royalty	Additional Equipment Royalty Payment Terms

Franchisee must present evidence to Franchisor, as required by Franchisor in its sole discretion, that Franchisee no longer owns the Additional Equipment prior to Franchisee being excused from paying any further Additional Equipment Royalties. Franchisee shall not be entitled to receive a refund on any Additional Equipment Royalty paid. Franchisee acknowledges and agrees that the Additional Equipment Royalty may increase upon renewal of the Franchise Agreement and agrees to pay Franchisor the then-current Royalty amount upon any such renewal.

2. **AMENDMENT BINDING.** This Amendment will be binding upon and inure to the benefit of each party and to each party’s respective successors and assigns.



3. **NO FURTHER CHANGES.** Except as specifically provided in this Amendment, all the terms, conditions, and provisions of the Franchisee Agreement will remain in full force and effect as originally written and signed. In the event of any inconsistency between the Franchise Agreement and this Amendment, this Amendment shall control.

IN WITNESS WHEREOF, the parties duly executed this Amendment as of the dates listed below.

**Mobile Coffee Company, LLC,**  
a Delaware limited liability company

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

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

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

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

**\*Effective Date**

**FRANCHISEE:**

\_\_\_\_\_  
Company Name

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

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

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

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

## **EXHIBIT I-14**

### **FIXED LOCATION AMENDMENT TO FRANCHISE AGREEMENT**

This Amendment to the Franchise Agreement (the “**Amendment**”) is made and entered into this \_\_\_\_\_ between Mobile Coffee Company, LLC, a Delaware limited liability company (“**Franchisor**”), and [Entity name], a(n) [State and entity type] (referred to herein as “**Franchisee**”).

### **RECITALS**

WHEREAS, Franchisor and Franchisee entered into a franchise agreement (with all attachments and exhibits thereto, the “**Franchise Agreement**”) dated [Date], pursuant to which Franchisee was granted the right to operate a Travelin’ Tom’s Franchise (the “**Travelin’ Tom’s Business**”);

WHEREAS, Franchisee desires to operate a Travelin’ Tom’s Business from a permanent location in tandem with the BEV (“**Mobile Business**”), which is referred to in the Franchise Agreement as a “**Fixed Location Business**,” and

WHEREAS, Franchisor and Franchisee desire to modify the Franchise Agreement consistent with the operation of a Fixed Location Business in tandem with the Mobile Business pursuant to and in accordance with the terms of this Amendment.

Capitalized terms not defined herein shall have the meaning set forth in the Franchise Agreement.

NOW THEREFORE, in consideration of the mutual agreements, covenants and promises contained in this Amendment and for mutual consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

1. **RECITALS.** The Recitals set forth above are hereby incorporated into the terms of this Amendment as if fully restated herein.

2. **FIXED LOCATION BUSINESS.** Upon execution of this Amendment, Franchisee is hereby granted the right to operate a Fixed Location Business in tandem with the existing Mobile Business under the Franchise Agreement. The Mobile Business shall remain in full force and effect and all references to the BEV shall be unaffected unless modified by this Amendment.

3. **PREMISES AND PREMISES STANDARDS.** A new Section 13.14 is hereby appended to the Franchise Agreement which is hereby amended to include the following in connection with the Fixed Location Business:

13.14 **Premises and Premises Standards.** The Parties acknowledge and agree that the Franchise Agreement shall be for both the Fixed Location Business and the BEV. The site of the Fixed Location Business shall be: [insert address] (the “**Premises**”). Franchisee may only operate the Fixed Location Business from the Premises and may not relocate the Fixed Location Business without the written consent of Franchisor which it may withhold in its sole discretion. You may not utilize any other Premises in the operation of your Franchised Business, and the Premises must only be used for the operation of your Franchised Business and not for any other purpose.

You agree to comply with all applicable zoning, land use, and other legal requirements, as well as obtain all necessary permits, licenses, and approvals required to operate from a fixed location at your sole

expense. You must operate your Fixed Location Business in accordance with any fixed location policies, procedures, and standards set forth in our Brand Manual. Although fixed location businesses may follow a consistent theme, you acknowledge and agree that the details for your Fixed Location Business may differ, often based upon local requirements and you agree that your Fixed Location Business may not be identical to those of other franchisees. If modifications to the Premises are necessary to comply with applicable local laws and/or ordinances, you may be required to pay a fee to us or our affiliate for the costs and expenses in making the necessary modifications to the Premises. You will also be required to purchase an initial inventory of Travelin' Tom's Coffee equipment, uniforms, and supplies from us or our affiliates when you lease or purchase the Premises. These payments are non-refundable.

You must use our approved supplier for the decoration and/or design of your Fixed Location Business. Your Fixed Location Business must meet our then-current standards that we specify and that are contained in the Brand Manual. You must not use the Premises for any purpose other than the operation of your Fixed Location Business. You agree to: (i) decorate your Fixed Location Business under our then-current System standards, and at our request, periodically update or improve the decoration of the Fixed Location Business (any such updates or improvements must be made within 30 days of our delivery of notice to you that such updates or improvements must be made); (ii) maintain the condition of the Fixed Location Business consistent with the image of a Franchised Business and in accordance with the System standards; (iii) not transfer the Fixed Location Business without first removing all of the Marks from the Fixed Location Business and any additional equipment; and (iv) obtain and maintain all appropriate permits, business and contractor licenses and certifications used in the Franchised Business. During the Term, you agree to take the following actions: (A) thoroughly clean, repaint, and redecorate the interior and exterior of the Fixed Location Business and any additional equipment at intervals we prescribe; (B) repair the interior and exterior of the Fixed Location Business; and (C) at our request, to periodically improve and modify the Fixed Location Business to conform to the then-current System standards. You will place or display at the Fixed Location Business, only those signs, emblems, designs, artwork, lettering, logos, and display and advertising materials we approve from time to time. If at any time in our reasonable judgment, the general state of repair, appearance, or cleanliness of the Fixed Location Business of the Franchised Business or its fixtures, furnishings, equipment, assets, or signs does not meet our standards, we may notify you and specify the action you must take to correct the deficiency. These corrective actions will be performed at your sole expense.

4. **ROYALTY FEE.** The Parties acknowledge and agree that the Royalties for the Fixed Location Business shall be paid separate from and in addition to the Mobile Business. The Royalties for the Fixed Location Business shall be paid monthly and shall equal the greater of: (i) \$166.67 per month or (ii) two percent (2%) of all Gross Sales for the prior month. “Gross Sales” means the total of all income, revenues, and consideration received or receivable by Franchisee as payment, whether in cash or for credit or barter, or other means of exchange (and, if for credit or barter, whether or not payment is received therefor), on account of any and all food, beverages, goods, merchandise, services or products sold in or from the Fixed Location Business, including in-store, carry-out, drive-thru, online orders, delivery, third-party voucher sales, gift cards, catering or otherwise, or which are promoted or sold under any of the Marks, during each month of the Term, whether or not Franchisor offers such services or products in its other locations, including: (a) revenues from sales of any nature or kind whatsoever, derived by Franchisee or by any other person or Entity (including Franchisee’s Affiliate(s)) from the Fixed Location Business; (b) sales of authorized products in contravention of the Franchise Agreement; (c) the proceeds of any business interruption insurance, after the satisfaction of any applicable deductible; and (d) sales from vending devices including pay telephones. Notwithstanding the foregoing, “Gross Sales” shall exclude the following: (i) sales from the Mobile Business; (ii) sums representing sales taxes collected directly from customers by Franchisee in the operation of the Fixed Location Business, and any sales, value added or other tax, excise or duty charged to customers which is levied or assessed against Franchisee by any Federal, state, municipal or local authority, based on sales of specific goods, products, merchandise or services sold

or provided at or from the Fixed Location Business, provided that such taxes are actually transmitted to the appropriate governmental authority; (iii) sums representing tips, gratuities or service charges paid directly by customers to employees of Franchisee or paid to Franchisee and promptly and to the extent turned over to such employees by Franchisee in lieu of direct tips or gratuities; (iv) proceeds from isolated sales of equipment and trade fixtures not constituting any part of Franchisee's products and services offered for resale at the Fixed Location Business nor having any material effect upon the ongoing operation of the Fixed Location Business required under the Franchise Agreement; and (v) revenues received on account of sales of pre-paid gift cards and certificates; provided, however, that revenues received on redemption of such pre-paid gift cards and certificates shall be included as part of "Gross Sales." For purposes of clarity, with respect to goods, merchandise, services or products sold pursuant to coupons or other discounts (which must be approved in advance by Franchisor), Gross Sales shall not include the amount of the discount from the original undiscounted purchase price of such goods, merchandise, services or products.

Franchisee shall calculate the Royalties amount due to Franchisor and cause Franchisor to receive payment of all Royalties amounts then owed to Franchisor, together with a statement of Franchisee's Gross Sales for the applicable month (certified as complete and accurate by a duly authorized representative of Franchisee), by no later than the 15th day following such month. The statement may be provided by software approved by Franchisor. In the event that the software is not functioning or this feature is not available, Franchisee shall prepare and submit the required reports manually.

We reserve the right to adjust your minimum Royalty annually based on the Consumer Price Index as defined by the U.S. Bureau of Labor Statistics.

5. **POINT OF SALE SYSTEM.** If Required by Franchisor, Franchisee agrees to install a separate point of sale system, as detailed in Section 14.1 of the Franchise Agreement, for the Fixed Location Business. Franchisee acknowledges that the point of sale system would be separate from any requirement to purchase a point of sale system for the Mobile Business.

6. **TERRITORY.** Franchisee acknowledges and agrees that the Fixed Location Business will be located within the Territory for the Mobile Business and that no additional territorial rights shall be granted.

7. **TECHNOLOGY FEE AND BUSINESS MANAGEMENT SOFTWARE FEE.** The Business Management Software Fee shall be \$35 (or the then-current price) and is subject to increase in accordance with Section 6.10 of the Franchise Agreement. The Business Management Software Fee for the Fixed Location Business shall not count towards the fee calculation as a BEV, instead each shall be calculated independently. Franchisor and Franchisee agree and acknowledge that Franchisee shall pay a separate Technology Fee (currently, \$500 per year) for the Fixed Location Business and Section 6.9 of the Franchise Agreement is hereby amended accordingly.

8. **INSURANCE.** Franchisee acknowledges and agrees that the insurance requirements set forth in Section 19 of the Franchise Agreement relates to a BEV and not to a Fixed Location Business. Therefore, Franchisee agrees to procure and maintain all insurance required by Franchisor under the Brand Manual and the local operator at the Premises as well as in compliance with all applicable laws, rules and regulations.

9. **COMPETITIVE BUSINESS.** The definition of "Competitive Business" in Section 18.2 of the Franchise Agreement is hereby amended to include the word "restaurant" before "food truck".

10. **REFERENCES TO BEV AND ADDITIONAL EQUIPMENT.** The references to the BEV and/or Additional Equipment in Sections 2, 5.2.3, 5.3, 6.12, 13.11, 21.1, 25.5, and 25.10 are each

hereby amended and restated to simultaneously refer to the Fixed Location Business and the Premises.

**11. INTERDEPENDENCE AND TERMINATION.** The Fixed Location Business under the Franchise Agreement will operate within the Territory assigned to Franchisee in Franchise Agreement and the Mobile Business will be operated in tandem by Franchisee. Franchisor agrees to grant Franchisee the Fixed Location Business on the condition that Franchisee continues to operate the Mobile Business under the Franchise Agreement. The parties acknowledge and agree that the Fixed Location Business is dependent on the continued operation of the Mobile Business. If the Mobile Business ceases operations or is otherwise terminated pursuant to Franchise Agreement for any reason, Franchisor shall have the immediate right to terminate the rights given to Franchisee under this Amendment, including the right to operate the Fixed Location Business. Franchisor may also terminate this Amendment and Franchisee's right to operate the Fixed Location Business pursuant to the termination provisions of the Franchise Agreement. In the event that this Amendment is terminated, and that Franchisee is in compliance with the Franchise Agreement as it pertains to the Mobile Business, the Franchise Agreement shall remain in full force and effect with regards to the Mobile Business. Franchisor and Franchisee may only terminate this Amendment by written agreement. If Franchisee decides to terminate this Amendment and Franchisee's right to operate the Fixed Location Business, Franchisee must notify Franchisor in writing of its intention to do so at least 30 days before ceasing operation of the Fixed Location Business.

**12. CONDITIONS FOR APPROVAL OF TRANSFER.** Franchisee may not transfer, assign or convey any of the rights under the Franchise Agreement without doing so in tandem with this Amendment. Therefore, the following is added as a new Section 16.3.14 to the Franchise Agreement:

"16.3.14 Fixed Location Business The transferee agrees to take assignment of this Franchise Agreement under the terms and conditions of the Franchise Agreement as amended by that certain Fixed Location Form Amendment."

**13. FRANCHISEE REPRESENTATIONS.** Franchisee understands that the Fixed Location Business is a departure from the Franchisor's traditional operation of a mobile based concept and understands and acknowledges that the Fixed Location Business is different from Franchisor's current System. Franchisee acknowledges and agrees as follows:

a) Franchisee has conducted an independent investigation of the costs and risks associated with the Fixed Location Business and, in specific recognition thereof, desires to move forward with the Fixed Location Business at its sole risk and expense.

b) Franchisee has voluntarily entered into the Fixed Location Business and this Amendment.

c) The Fixed Location Business will require Franchisee to incur increased initial and ongoing expenses in operating the Fixed Location Business including but not limited to build-out, inventory, equipment, supplies, materials, products, staff training and signage. Franchisee acknowledges that the expenses will result in a material increase to the cost to operate the Fixed Location Business and that it has had an opportunity to investigate these expenses prior to entering into this Amendment and is solely responsible for such expenses.

d) Franchisee is solely responsible for the development, operation, and maintenance of the Fixed Location Business and Franchisor expressly disclaims any obligation to provide support, guidance, resources, or assistance related to the Fixed Location Business.

e) Franchisee has independently determined that the Fixed Location Business would

be compatible with the operation of the Travelin' Tom's Business and as a part of the System.

f) Franchisee received this Amendment in the same form herein at least seven (7) days prior to the date that this Amendment shall be executed.

**14. NO REPRESENTATIONS BY FRANCHISOR.** Franchisor makes no representations, warranties, or guaranties, express or implied, relating to the viability of the Fixed Location Business, including but not limited to the potential revenues, income, profits, volume or success of the Fixed Location Business contemplated by this Amendment.

**15. REAFFIRMATION.** Except as specifically provided in this Amendment, all of the terms, conditions and provisions of the Franchise Agreement will remain in full force and effect as originally written and signed. In the event of any inconsistency between the provisions of the Franchise Agreement and this Amendment, the terms of this Amendment shall control.

**16. NO RELIANCE OR COERCION.** The parties each acknowledge that, in entering into this Amendment, neither of the parties has relied on any representations from the other party. The parties further acknowledge that they are freely and voluntarily entering into this Amendment, uncoerced by any person, and that they have sought and obtained the advice of legal counsel of their choice with regard to this Amendment.

**17. COUNTERPARTS AND TELECOPIES.** This Amendment may be executed in counterparts or by copies transmitted by telecopier, all of which shall be given the same force and effect as the original. This Amendment shall be effective when the signatures of all parties have been affixed to counterparts or copies.

**18. FURTHER ASSURANCE.** Each of the Parties will, upon reasonable request of the other, sign any additional documents necessary or advisable to fully implement the terms and conditions of this Amendment.

**19. AMENDMENT BINDING.** This Amendment will be binding upon and inure to the benefit of each party and to each party's respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have duly executed and delivered this Amendment the date and year first written above.

**(Signatures on following page)**



**FRANCHISOR:**

**FRANCHISEE:**

**MOBILE COFFEE COMPANY, LLC,**  
a Delaware limited liability company

**[ENTITY NAME],**  
**a(n) [State and entity type]**

By:

By:

Printed Name:

Printed Name:

Title:

Title:



**EXHIBIT J**

**STATE EFFECTIVE DATES**



### **State Effective Dates**

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered or exempt from registration, as of the Effective Date stated below:

<b>State</b>	<b>Effective Date</b>
California	Pending
Hawaii	Pending
Illinois	<del>April 25, 2023</del> Pending
Indiana	<del>May 20, 2022,</del> <del>Renews May 20, 2023</del> Pending
Maryland	Pending
Michigan	<del>May 24, 2022,</del> <del>Renews May 24, 2023</del> Pending
Minnesota	Pending
New York	Pending
North Dakota	Pending
Rhode Island	<del>May 24, 2022,</del> <del>Renews May 24, 2023</del> Pending
South Dakota	Pending
Virginia	<del>April 27, 2023</del> Pending
Washington	Pending
Wisconsin	<del>April 21, 2023</del> Pending

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

EXHIBIT JK  
RECEIPT

**RECEIPT**  
**(Retain This Copy)**

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Mobile Coffee Company, LLC offers you a franchise, it must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

Under Iowa law, if applicable, Mobile Coffee Company, LLC must provide this disclosure document to you at your first personal meeting to discuss the franchise. Michigan requires Mobile Coffee Company, LLC to give you this disclosure document at least ten (10) business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first. New York requires you to receive this disclosure document at the earlier of the first personal meeting or ten (10) business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

If Mobile Coffee Company, LLC does not deliver this disclosure document on time or if it contains a false or misleading statement or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580, and the appropriate state agency identified on Exhibit A.

The name, principal business address, and telephone number of each franchise seller offering the franchise is:
Tony Lamb, 5945 Centennial Circle, Florence, KY 41042 and 1-800-566-2423

Issuance Date: April 20, ~~2023~~18, 2024

I received a disclosure document issued April 20, ~~2023~~18, 2024 which included the following exhibits:

- Exhibit A State Administrators/Agents for Service of Process
- Exhibit B Financial Statements
- Exhibit C Franchise Agreement
- Exhibit D Area Development Agreement
- Exhibit E Franchise Disclosure Questionnaire
- Exhibit F Brand Manual Table of Contents
- Exhibit G List of Current and Former Franchisees
- Exhibit H State Addenda and Agreement Riders
- Exhibit I Contracts for use with the Travelin' Tom's Coffee Franchise
- Exhibit J State Effective Dates
- Exhibit K Receipt

_____	_____	_____
Date	Signature	Printed Name

_____	_____	_____
Date	Signature	Printed Name

Rev. 012417

**PLEASE RETAIN THIS COPY FOR YOUR RECORDS.**



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**RECEIPT**  
**(Our Copy)**

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

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_____	_____	_____
Date	Signature	Printed Name

Rev. 012417

Please sign this copy of the receipt, date your signature, and return it to Mobile Coffee Company, LLC, 5945 Centennial Circle, Florence, KY 41042.



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