

## FRANCHISE DISCLOSURE DOCUMENT



MTY Franchising USA, Inc.

dba *Built Custom Burgers*

a Tennessee corporation

9311 E Via De Ventura

Scottsdale, Arizona 85258

Telephone: (480) 362-4800

[www.builtcustomburgers.com/](http://www.builtcustomburgers.com/)

[www.builtcustomburgers.com/#franchise](http://www.builtcustomburgers.com/#franchise)

[www.bbq-holdings.com](http://www.bbq-holdings.com)

[www.bbq-holdings.com/franchising](http://www.bbq-holdings.com/franchising)

**Franchise Business:** Built Custom Burgers is a fast casual restaurant featuring build-your-own burgers, signature burgers, side dishes, sandwiches, salads, desserts, ice-cream shakes, non-alcoholic beverages and certain alcoholic beverages, including, at a minimum, beer and wine.

**Initial Investment:** The total investment necessary to begin operation of a Built Custom Burgers restaurant franchise ranges from \$418~~7~~,500 to \$1,012~~07~~,000 for a traditional franchise unit and from \$409~~8~~,500 to \$1,302~~297~~,000 for a non-traditional franchise unit. This includes \$403~~4~~,000 to \$85~~2~~,500 for a traditional location and \$31~~25~~,000 to \$74~~2~~,500 for a non-traditional location that must be paid to the franchisor or its affiliate.

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

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 MTY Franchising USA, Inc., Attn: ~~John Wuycheck~~ Legal Department, at 9311 E. Via De Ventura, Scottsdale, Arizona 85258 and (480) 362-4800.

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: March 27~~8~~, 202~~65~~, ~~as amended October 10, 2025~~.

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

The franchisor is MTY Franchising USA, Inc. To simplify the language in this Disclosure Document, “Company,” “we,” “us” “franchisor” and “our” refer to MTY Franchising USA, Inc. (“MTY USA”) “You” and “Your” means the person who buys the franchise and includes your owners if you are a corporation, limited liability company, partnership or other business entity that buys ~~The Counter~~the Built Custom Burgers franchise. If “you” are a business entity “you” includes the shareholders, members or owners of the business to the extent each guaranties or otherwise agrees to perform or be bound by The Franchisor, Its Parents, Predecessors and Affiliates, The Company, Its Parents, Predecessors and Affiliates. Any email addresses and website URLs referenced in this Disclosure Document, including its exhibits, are current as of the effective date of this Disclosure Document. We may update these email addresses and/or website URLs from time to time.

**The Franchisor, Its Predecessors and Affiliates**

We have been offering *Built Custom Burgers* and The Counter franchises since December of 2017. In particular, MTY USA entered into an agreement to purchase effective December 1, 2017 all outstanding membership interests of: (i) the franchisors of the *Built Custom Burgers* and The Counter brands – i.e. Built Franchise Systems, LLC and CB Franchise Systems, LLC (individually and collectively, the “Prior Franchisors”), each a California limited liability company having an address at 8571 Higuera Street, Culver City, California 90232, including the rights to franchise such brands, and (ii) TC Naples LLC, TC Kahala, LLC, and Counter Reston LLC, each of which were wholly-owned subsidiaries of the Prior Franchisors, and each of which owned and operated Prior Franchisor’s company-owned stores. Effective January 2019, MTY USA became the primary franchisor for *Built Custom Burgers* and The Counter brands. We offer area development *Built Custom Burgers* and The Counter franchises under separate disclosure documents. As of November 30, ~~2024~~2025, there were ~~9-7~~ 8-6 franchised, and 1 international) The Counter restaurants and ~~7-6~~ 3-2 franchised in the United States and 4 international) Built restaurants.

Before our acquisition detailed above, the Prior Franchisors offered *Built Custom Burgers* since 2014 and The Counter franchise since 2006.

MTY Franchising USA, Inc., a Delaware corporation formerly known as The Extreme Pita Franchising USA, Inc., was incorporated on March 14, 2001. MTY Franchising USA, Inc., a Tennessee corporation was incorporated on September 25, 2019. These two affiliated entities merged together in 2019, with MTY Franchising USA, Inc., a Tennessee corporation, being the surviving entity. You will see references to our former corporate names in our audited financial statements. Our agents for service of process are disclosed in Exhibit C. Unless otherwise specified, our registered agent for service of process is C T Corporation System, 300 Montvue Road, Knoxville, Tennessee 37919.

MTY USA’s parent corporation is MTY Franchising Inc. (“**MTY Canada**”), a Canada corporation formerly known as MTY Tiki Ming Enterprises Inc., having an address at 8150 Route Transcanadienne, Suite 200, Ville Saint-Laurent, Quebec, H4S 1M5, Canada. MTY Canada was initially incorporated under the Canada Business Corporations Act on February 13, 1979, under the name “Matoyee Enterprises Inc.” On September 24, 2013, MTY Canada acquired our stock. MTY Canada is a wholly owned subsidiary of MTY Food Group, Inc. (“**MTY**”), a public corporation listed

on the Toronto Stock Exchange. MTY's principal place of business is also 8150 Route Transcanadienne, Suite 200, Ville Saint-Laurent, Quebec, H4S 1M5, Canada.

An affiliate of ours, TC Kahala, LLC, owns and operates one "The Counter" restaurant in Honolulu, HI. Currently, neither we nor any of our affiliates, owns or operates any BUILT™ Custom Burgers restaurants. In the future, we or our affiliates may develop and operate new *Built Custom Burgers* restaurants and/or other restaurant concepts.

MTY Canada currently operates or has franchised over (55) different restaurant concepts and has over ~~2,500~~ 400 units under following brands primarily in Canada and other international countries: Allo Mon Coco, Baton Rouge Steakhouse & Bar, Ben & Florentine, Big Smoke Burger, BOJWLD, Café Depot, Casa Grecque, Country Style, Cultures, Dagwoods, Extreme Pita, Giorgio, Jugo Juice, Kim Chi, Koryo, Koya, Kuto Comptoir A Tartares, La Crémère, La Diperie (and Cakes & Shakes by La Dip), Madisons, Manchu Wok, Toujours Mikes, ~~mmm~~ muffins, Mr. Souvlaki, Mr. Sub, Mucho Burrito, Muffin Plus, ~~O'Burger~~, Papa Murphy's, Pizza Delight, Poke by Sushi Shop, Scores, South St. Burger, Spice Bros, Steak & Frites St. Paul Sukiyaki, ~~Sushi Go~~, Sushman, Sushi Shop, Thai Express, Thaizone, The Works, Tiki Ming, Timothy's World Coffee, The COOP Wicked Chicken, Tosto, Turtle Jack's, Tutti Frutti, Valentine, Van Houtte, Vanellis, Vie & Nam, Villa Madina, Spice Brothers, Steak Frites, Wasabi, Wetzel's Pretzels and YUZU. MTYFG or one of its subsidiaries is the master licensee for the following brands: TCBY (Canada), Taco Time (Canada), MTY also provides support services to Extreme Pita stores in the United States.

Effective March 1, 2018, MTY through the merger of a wholly-owned subsidiary with Imvescor Restaurant Group Inc. ("IRG"), acquired all the outstanding shares of IRG. At closing, IRG operated 5 brands in Canada and had 261 locations in operation.

On May 25, 2016, MTY entered into an agreement with Kahala Brands, Inc., formerly known as Kahala Brands, Ltd., having an address at 9311 East Via de Venture, Scottsdale, AZ 85258 ("**Kahala Brands**"), whereby Kahala Brands agreed to merge with a wholly-owned subsidiary of MTY ("**Kahala Brands Transaction**"). The Kahala Brands Transaction closed July 26, 2016. As of the issuance date, Kahala Brands or one or more of its subsidiaries has franchised or currently operates approximately 2,600 quick service restaurants which consist of the multiple brands further detailed in the chart below.

Effective May 23, 2019, Papa Murphy's Holdings, Inc. ("Papa Murphy's"), a Delaware corporation having an address at 8000 NE Parkway Dr. #350, Vancouver, WA 98662, merged with a wholly-owned subsidiary of MTY. MTY USA succeeded as the parent company of Papa Murphy's. The current franchisor offers *Papa Murphy's* unit franchises which sell or offer for sale products that are similar to those of *Johnnie's New York Pizzeria*. As of November 30, ~~2024~~ 2025, there were ~~1,000~~ 36 franchised units (~~1,001~~ 965 Franchised in the United States and 35 internationally plus ~~493~~ company-owned units in the United States.

On August 8, 2022, MTY Franchising USA, Inc. and its wholly owned subsidiary Grill Merger Sub, Inc. ("Merger Sub") entered into an agreement with BBQ Holdings, Inc. ("BBQ"), a Minnesota corporation, providing for the acquisition of BBQ by MTY Franchising USA, Inc., consisting of a tender offer (the "Offer") for all of the outstanding shares of BBQ common stock, followed by a subsequent merger of Merger Sub with and into BBQ (the "BBQ Merger"), with BBQ surviving the BBQ Merger as a wholly-owned subsidiary of MTY Franchising USA, Inc. This transaction included the rights to franchise and/or operate the Barrio Queen, Famous Dave's, Village Inn, Bakers Square, Granite City Food and Brewery, Real Urban BBQ, Craft Republic Bar & Grill, Champps Kitchen + Bar, Fox & Hound, and Tahoe Joe's Famous Steakhouse brands.

BBQ, through its subsidiary, VI BrandCo, LLC a Delaware limited liability company, offers Village Inn restaurants. As of November 30, ~~2024~~2025, there were ~~114~~109 Village Inn restaurants (including franchised and company-owned) in the United States. BBQ, through its subsidiary, Famous Dave's of America, Inc., a Minnesota corporation, offers Famous Dave's restaurants. As of November 30, ~~2024~~2025, there were ~~109~~100 Famous Dave's restaurants (including franchised and company-owned) in the United States, and ~~8~~10 franchised restaurants internationally. With the merger closing that took place on September 27, 2022, MTY Franchising USA, Inc. is the parent company of both VI BrandCo, LLC and Famous Dave's of America, Inc.

On December 8, 2022, MTY Franchising USA, Inc. and its wholly owned subsidiary Twisted Merger Sub, Inc. ("WP Merger Sub"), a Delaware corporation, entered into an agreement with COP WP Parent, Inc. ("COP"), a Delaware corporation, providing for the acquisition of COP by MTY Franchising USA, Inc., consisting of a merger of WP Merger Sub with and into COP (the "COP Merger"), with COP surviving the COP Merger as a wholly-owned subsidiary of MTY Franchising USA, Inc., under the name Twisted Merger Sub, Inc. In November 2023, MTY Franchising USA, Inc. became the parent company of Wetzel's Pretzels, LLC ("Wetzel's Pretzels"), a California limited liability company. This transaction included the rights to franchise and/or operate the Wetzel Pretzel's brand, through Wetzel's Pretzels. As of November 30, ~~2024~~2025, there were ~~425~~458 Wetzel Pretzels restaurants (including franchised and company-owned) in the United States and ~~17~~32 franchised restaurants internationally. With the merger closing that took place on December 8, 2022, MTY Franchising USA, Inc. is the parent company of Wetzel's Pretzels, LLC.

On December 15, 2022, MTY Franchising USA, Inc. via its wholly owned subsidiary Sauce Restaurants, LLC ("Sauce Restaurants"), an Arizona limited liability company, simultaneously signed and closed an asset purchase agreement with Sauce, LLC, an Arizona limited liability company, Sauce Holdings, LLC, a Delaware limited liability company, and several other of their affiliates (collectively, "Sauce Sellers"), providing for the acquisition of the assets of Sauce Sellers by Sauce Restaurants. This transaction included the rights to operate (and ultimately franchise should Sauce Restaurants so desire) the Sauce Pizza and Wine brand. As of November 30, ~~2024~~2025, there were 13 Sauce Pizza and Wine restaurants (all of which were company-owned) in the United States. BBQ Holdings, Inc., a subsidiary of MTY Franchising USA, Inc., is the direct parent company of Sauce Restaurants.

### **Other Franchises Offered by Franchisor or its Affiliate**

MTY USA IS ONLY OFFERING A BUILT CUSTOM BURGER UNIT FRANCHISE UNDER THIS DISCLOSURE DOCUMENT. EACH OF THE FRANCHISES DETAILED BELOW ARE OFFERED BY ONE OF ITS AFFILIATES UNDER SEPARATE DISCLOSURE DOCUMENTS FOR EACH BRAND.

We have the following U.S.-based affiliates through common ownership by MTY Food Group, that also offer franchises in the United States and internationally: (1) MTY USA, a Tennessee corporation having an address of 9311 E. Via De Ventura, Scottsdale, Arizona 85258; (2) MTY Canada, a Canada corporation having an address at 8210, route Transcanadienne, Suite 200, Saint-Laurent, Québec, H4S 1M5, Canada; (3) Kahala Franchising, LLC ("Kahala Franchising"), an Arizona limited liability company with its principal address at 9311 E. Via De Ventura, Scottsdale, Arizona 85258; (4) BF Acquisition Holdings, LLC ("BFAH"), a Delaware limited liability company with a principal address at 9311 E. Via De Ventura, Scottsdale, Arizona 85258; (5) La Salsa Franchise, LLC, a Delaware limited liability company with a principal address at 9311 E. Via De Ventura, Scottsdale, Arizona 85258; (6) Invescor Restaurant Group Inc. ("IRG")

a Canada corporation having an address at 8210, route Transcanadienne, Suite 200, Saint-Laurent, Québec, H4S 1M5, Canada; (7) Papa Murphy's International, LLC (Papa Murphy's), a Delaware limited liability company having an address at 8000 NE Parkway Drive, Suite 350, Vancouver, Washington 98662; (8) VI BrandCo, LLC ("Village Inn"), a Delaware limited liability company having a principal address at 12701 Whitewater Drive, Suite 100, Minnetonka, Minnesota 55343-4164, (9) BQ Concepts, LLC, an Arizona limited liability company having a principal address at 12701 Whitewater Drive, Suite 100, Minnetonka, Minnesota 55343-4164; (10) Wetzel's Pretzels, LLC, a California limited liability company with a principal business office at 35 Hugus Alley, Suite 300, Pasadena, CA 91103; and (11) Famous Dave's of America, Inc., a Minnesota ~~limited liability company~~ corporation having a principal address at 12701 Whitewater Drive, Suite 100, Minnetonka, Minnesota 55343-4164. These affiliates franchise over 50 different concepts.

The following summarizes *Built Custom Burgers* and these other quick service restaurant brands as of November 30, ~~2024~~2025, including the type of restaurant business, number of franchised units in operation as of November 30, ~~2024~~2025, and the date MTY USA, Kahala Franchising, or other affiliates and or its current or former affiliates offered franchises in those brands:

| Brand Name                        | Type of Restaurant Business                                                                   | Number of Units as of November 30, <del>2024</del> <u>2025</u> | Dates unit franchises began being offered by us or our affiliate                               |
|-----------------------------------|-----------------------------------------------------------------------------------------------|----------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| Extreme Pita                      | Restaurants serving wrap-style hot and cold pita and wrap sandwiches                          | 1 franchised unit                                              | From March 2001 to July 2014: The Extreme Pita Franchising USA, Inc.; since July 2014: MTY USA |
| Grabbagreen                       | Restaurants serving healthy food, juice, smoothies and related products                       | <del>4</del> <u>3</u> franchised units                         | Since February 2018 under MTY USA                                                              |
| Ginger Sushi Boutique + Poke Shop | Restaurant serving a variety of sushi menu items and drinks                                   | 0 franchised units                                             | From September 2015 under MTY USA                                                              |
| Mucho Burrito                     | Restaurants offering burritos, quesadillas, tacos, nachos, and other assorted food and drinks | <del>4</del> <u>0</u> franchised units                         | From January 2010 under Mucho Burrito Franchising USA, Inc.; from March 2019 under MTY USA     |

| Brand Name       | Type of Restaurant Business                                                                                      | Number of Units as of November 30, <del>2024</del> 2025                                                                                  | Dates unit franchises began being offered by us or our affiliate                                 |
|------------------|------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| Thai Express     | Restaurant serving “Thai-style” foods and drinks                                                                 | 7 franchised units ( <del>5</del> 4 in the United States and <del>2</del> 3 internationally) (plus <del>2</del> 1 company-owned)         | From February 2015 under MTY USA                                                                 |
| La Diperie       | Restaurant serving retail sale of an ice cream product and various dips and toppings                             | <del>4</del> 2 franchised units                                                                                                          | From April 2019 under MTY USA                                                                    |
| Ben & Florentine | Restaurant serving a superior breakfast & lunch experience                                                       | 0 franchised units                                                                                                                       | From December 2018 under MTY USA                                                                 |
| Baja Fresh       | Restaurant offering a limited menu featuring fresh high quality Mexican-style food products                      | <del>69</del> 70 franchised units (67 in the United States and <del>2</del> 3 internationally) (plus <del>6</del> 1 company-owned units) | October 2016 until July 2017 under Triune, LLC and since then under BF Acquisition Holdings, LLC |
| La Salsa         | Restaurant offering a limited menu featuring fresh high quality Mexican-style food products                      | <del>5</del> 4 franchised units                                                                                                          | October 2016 under La Salsa Franchise, LLC.                                                      |
| The Counter      | Full service restaurant featuring build-your-own burgers, signature burgers, side dishes, sandwiches, and salads | <del>9</del> 7 franchised ( <del>8</del> 6 in the United States and 1 internationally) (plus <del>3</del> 2 company-owned units)         | December 2017 under CB Franchise Systems, LLC. Then from March 2019 under MTY USA                |

| Brand Name           | Type of Restaurant Business                                                                                     | Number of Units as of November 30, <u>2024</u> <u>2025</u>                                                                                                                           | Dates unit franchises began being offered by us or our affiliate                     |
|----------------------|-----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| Built Custom Burgers | Fast casual restaurant featuring build-your-own burgers, signature burgers, side dishes, sandwiches, and salads | <del>7</del> <u>6</u> franchised units ( <del>3</del> <u>2</u> in the United States and 4 internationally)                                                                           | December 2017 under Built Franchise Systems, LLC. Then from March 2019 under MTY USA |
| sweetFrog            | Restaurant offering frozen yogurt using a self-serve delivery format                                            | <del>216</del> <u>213</u> franchised units ( <del>206</del> <u>203</u> in the United States which include <del>9</del> <u>7</u> licensed franchisees plus 10 internationally)        | September 2018 under MTY USA                                                         |
| Manchu WOK           | Quick service restaurant serving fast and fresh Chinese cuisine                                                 | 15 franchised units                                                                                                                                                                  | March 2015: MTY USA                                                                  |
| Famous Dave's        | Restaurants specializing in authentic, down-home, genuine smoked barbecue                                       | <del>85</del> <u>80</u> franchised units ( <del>77</del> <u>70</u> in the United States and <del>8</del> <u>10</u> internationally) plus <del>32</del> <u>30</u> company-owned units | From March 1994 under Famous Dave's of America, Inc.                                 |
| Village Inn          | Restaurant specializing in pancakes, omelets, skilletts, eggs, and other popular breakfast items                | <del>88</del> <u>84</u> franchised units plus <del>26</del> <u>25</u> company-owned units                                                                                            | From August 2020 under VI BrandCo, LLC                                               |
| Barrio Queen         | Restaurants specializing in authentic Southern Mexican                                                          | 8 company-owned units                                                                                                                                                                | From March 2023 under BQ Concepts, LLC                                               |
| Sauce Pizza / Wine   | Restaurants serving wood-fired pizzas, a variety of pasta dishes, and salads                                    | 13 company-owned units                                                                                                                                                               | March 2024                                                                           |
| Wetzel's Pretzels    | Restaurant specializing in hand-rolled fresh-baked soft pretzels                                                | <del>406</del> <u>455</u> franchised units ( <del>389</del> <u>423</u> in the United States and <del>17</del> <u>32</u> internationally) plus <del>36</del> <u>35</u> company-owned  | From April 1996 under Wetzel's Pretzels, LLC                                         |

| Brand Name            | Type of Restaurant Business                                                          | Number of Units as of November 30, <del>2024</del> 2025          | Dates unit franchises began being offered by us or our affiliate                                                  |
|-----------------------|--------------------------------------------------------------------------------------|------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
|                       |                                                                                      | units                                                            |                                                                                                                   |
| Champps Kitchen + Bar | sports theme restaurants that provide the public with high-quality food and beverage | <del>2</del> <u>1</u> franchised units plus 1 company-owned unit | From September 1999 to October 2008 under Champps Entertainment, Inc. and From August 2023 under BQ Concepts, LLC |

| Brand Name              | Type of Restaurant Business                                                                                                 | Number of Units as of November 30, <del>2024</del> 2025                                                                                                                                                                                                                                                                                                               | Dates unit franchises began being offered by us or our affiliate                                                                                                        |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Blimpie                 | Restaurants serving submarine sandwiches and salads                                                                         | <del>400</del> <u>87</u> franchised units ( <del>97</del> <u>84</u> in the United States and 3 internationally) (plus 4 company-owned units in the United States)                                                                                                                                                                                                     | From 2006 until 2010 by Kahala Franchise Corp. and since August 2010 under Kahala Franchising                                                                           |
| Chicken Strips and Dips | Ghost kitchen concept serving primarily chicken tenders.                                                                    | <del>3</del> <u>1</u> franchised units                                                                                                                                                                                                                                                                                                                                | March 2022, Kahala Franchising.                                                                                                                                         |
| Cold Stone Creamery     | Restaurants serving super-premium freshly made ice cream, cakes, pies, smoothies, shakes, and other frozen dessert products | <del>1,427</del> <u>501</u> franchised units ( <del>992</del> <u>1052</u> in the United States and <del>435</del> <u>449</u> internationally) (plus 2 company-owned units).<br><br><del>405</del> <u>103</u> Cold Stone Creamery franchises also sell Rocky Mountain Chocolate Factory products and 1 Cold Stone Creamery franchise also sells Tim Hortons® products. | From May 2007 until March 2008 by Cold Stone Creamery, Inc., from March 2008 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |

| Brand Name                  | Type of Restaurant Business                                                                                                               | Number of Units as of November 30, <del>2024</del> 2025                                                        | Dates unit franchises began being offered by us or our affiliate                                                                                               |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                             |                                                                                                                                           | Additionally, <del>13</del> 8 licensed units.                                                                  |                                                                                                                                                                |
| Frullati Cafe & Bakery      | Restaurants serving sandwiches, salads, smoothies and baked goods                                                                         | <del>44</del> 10 franchised units                                                                              | From 1999 until 2004 by Frullati Franchise Systems, Inc., from 2004 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |
| Great Steak                 | Restaurants serving Philadelphia cheesesteak sandwiches, chicken sandwiches and French fries                                              | <del>34</del> 32 franchised units ( <del>24</del> 23 in the United States and <del>10</del> 9 internationally) | From 2004 until March 2010 by Kahala Franchise Corp. and since August 2010 under Kahala Franchising                                                            |
| Johnnie's New York Pizzeria | Restaurants serving New York style pizza, calzones, salads, and related Italian cuisine menu items                                        | 2 franchised units                                                                                             | From 2006 until March 2010 by Kahala Franchise Corp. and since August 2010 under Kahala Franchising                                                            |
| Kahala Coffee Traders       | Restaurants serving coffee and espresso, tea, baked goods, parfaits, sandwiches and merchandise                                           | <del>5</del> 6 franchised units.<br>And 1 licensed unit.                                                       | November 2011 under Kahala Franchising                                                                                                                         |
| Maui Wowi                   | Store fronts or portable units serving fruit smoothies, <del>Hawaiian</del> coffee and espresso, <u>and other beverage and food items</u> | <del>88</del> 83 franchised units ( <del>80</del> 75 in the United States and 8 internationally)               | Since November 2015 under Kahala Franchising                                                                                                                   |

| Brand Name                   | Type of Restaurant Business                                                                                                                                     | Number of Units as of November 30, <del>2024</del> 2025                                                                                                                                         | Dates unit franchises began being offered by us or our affiliate                                                                                   |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| NrGize Lifestyle Cafe        | Cafes serving smoothies, fruit drinks and nutritional supplements                                                                                               | 57 franchised units                                                                                                                                                                             | From 2006 until March 2010 by Kahala Franchise Corp. and since August 2010 under Kahala Franchising                                                |
| Pinkberry                    | Restaurants serving frozen yogurt, yogurt drinks, smoothies and frozen desserts                                                                                 | <del>59-62</del> franchised.<br>And 30 licensed units.                                                                                                                                          | From July 2008 until April 2016 under Pinkberry Ventures, Inc. and since June 2016 under Kahala Franchising                                        |
| Planet Smoothie              | Restaurants serving smoothies, smoothie bowls, juices and nutritional supplements, <u>baked goods</u> , <u>parfaits</u> , <u>sandwiches</u> , and <u>salads</u> | <del>162-167</del> franchised units ( <del>154-160</del> in the United States and <del>8-7</del> internationally)<br><br>Additionally, as of fiscal year end there were 2 Tasti D-Lite outlets. | Since June 2016 under Kahala Franchising                                                                                                           |
| Ranch One                    | Restaurants specializing in grilled and crispy breaded chicken sandwiches                                                                                       | 2 franchised units                                                                                                                                                                              | From 2001 until 2004 by Ranch *1 Group, Inc., from 2004 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |
| Samurai Sam's Teriyaki Grill | Restaurants serving Japanese rice bowls and noodle bowls                                                                                                        | <del>42-10</del> franchised units                                                                                                                                                               | From 2003 until 2004 by SP Franchising, Inc., from 2004 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |

| Brand Name        | Type of Restaurant Business                                                                                    | Number of Units as of November 30, <del>2024</del> <u>2025</u>                                                                                                                                        | Dates unit franchises began being offered by us or our affiliate                                                                                                                                    |
|-------------------|----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Surf City Squeeze | Juice bars serving smoothies, fruit drinks and nutritional supplements                                         | 62 franchised units ( <del>59 in the United States and 3 internationally</del> ) (plus <del>4</del> <u>2</u> company-owned units)                                                                     | From 1994 until 2004 by Malibu Smoothie Franchise Corp. and Surf City Squeeze Franchise Corp., from 2004 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |
| TacoTime          | Restaurants serving <del>freshly-prepared</del> Mexican food including burritos, tacos, quesadillas and nachos | <del>222</del> <u>212</u> franchised units ( <del>97</del> <u>87</u> franchised in the United States and 125 internationally) (plus 2 company-owned units) Additionally, there are 78 licensed units. | From 2003 until 2004 by Taco Time International, Inc., from 2004 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising                                         |
| Papa Murphy's     | Retail food outlet serving primarily take and bake pizza                                                       | <del>1,000</del> <u>36</u> franchised units ( <del>1,001</del> <u>196</u> franchised in the United States and 35 internationally) plus <del>493</del> company-owned units                             | From May 2019 Papa Murphy's International LLC                                                                                                                                                       |

We or our affiliates had previously also franchised the right to purchase a defined geographic area to become an area representee in; however, as of the issuance date of this Disclosure Document, we or our affiliates are not offering area representative agreements under a separate Area Representative Franchise Disclosure Document for any brands but may do so for additional brands in the future under a separate disclosure document.

### The Business

If you qualify, you may (i) construct a new *Built Customer Burgers* restaurant; (ii) purchase one of our *Built Customer Burgers* franchises by acquiring an existing business from another *Built Custom Burgers* franchisee or from us; or (iii) convert all of your existing retail operations from another brand to our brand.

The business you will operate is a single traditional or non-traditional *Built Custom Burgers* restaurant specializing in build-your-own burgers, signature burgers, side dishes, sandwiches, salads, desserts, ice-cream shakes, non-alcoholic and, in some restaurants, alcoholic beverages in a contemporary setting with great music at a specific location approved by us, and using the trademarks, trade names, service marks, logotypes, and other commercial symbols we adopt and

General Manager of FDA's Westbury, New York location.

Chief Operating Officer of Kahala Brands: Jeff Smit

Mr. Smit has been the Chief Operating Officer of Kahala Brands since June 2009 and has been a Director of MTY USA since November 2018. Prior to that, Mr. Smit was the Blimpie Brand President from November 2007 until December 2010 and the Sr. Vice President of Operations for Cold Stone Creamery from February 2005 to December 2007.

Chief Legal Officer: Jenny Moody

Ms. Moody has been with the Kahala Brands' Legal department since June 2010. In August 2012 she was named Corporate Counsel, in September 2013 International Counsel, in September 2016 Deputy General Counsel, and in November 2019 General Counsel. In August 2023, Ms. Moody assumed her current role.

Vice President of Training and Customer Service: Kerri Kudla

Ms. Kudla joined the Cold Stone Creamery training team in June 2002. She became Director of Operations & Training Development in January 2009 and was promoted to Senior Director of Operations & Training Development in October 2012. In June 2014, Ms. Kudla assumed her current role.

**Franchise Sales**

Vice President of Business Development – USA: Ramin (Ray) Zandi

Mr. Zandi is the Vice President of Business Development – USA, a position he has held since February 2009.

Senior Director of Franchise Sales: Shemar Pucel

Ms. Pucel joined the company in November 2020 as Director of Franchise Sales and was promoted to Senior Director of Franchise Sales in February 2022, where in her role she was responsible for Papa Murphy's franchise development. From October 2018 to August 2020, Ms. Pucel was a Director of Development for sweetFrog Premium Frozen Yogurt & Samurai Sam's. From October 2015 to October 2018, Ms. Pucel was with SFF, LLC (formerly SweetFrog Enterprises, LLC) where she first served as Manager of Franchise Marketing and Development and was promoted to Director of Franchise Marketing and Development in August 2016.

Senior Vice President of Development: John Wuycheck

Mr. Wuycheck has served as Kahala Brands' Senior Vice President of Development since September 2014. In this role, Mr. Wuycheck oversees franchise development for Kahala Brands' portfolio, including Wetzel's Pretzels.

Vice President of Franchise Development: Jay Goldstein

Mr. Goldstein has held his current role since May of 2009. Prior to this, he served as Senior Director of Operations, then Senior Director of Development for Kahala Franchising and has worked with the Cold Stone Creamery brand since October 2005.

Director of Franchise Development: Doug Merenda

Mr. Merenda joined Kahala Brands' sales team in October 2015 as a Director of Franchise Development and was a franchise broker for Kahala Brands from April 2015 through October 2015.

Franchise Development Manager: Traci Zandi

Ms. Zandi has assisted our Development team in awarding franchise units since October 2016. She also served as Office Manager and Executive Assistant for Extreme Pita from April 2011 until October 2016.

Vice President of Franchise Development: Peter Tsafoulis

Mr. Tsafoulis is the Vice President of Franchise Development, a position he has held since March of 2018. Prior to that, he served as the Director of Franchising of IRG from January 2008 until March 2018.

Manager of Franchise Development: Marilyn Bower

Ms. Bower joined Kahala Brands as Manager of Franchise Development in February 2025. Previously, she held similar roles at Gold Spectrum and SunMed from 2022 through 2024. Prior to that, Ms. Bower was a Customer Service Representative with Farmers Insurance Agency in Bradenton, Florida from 2020 through 2022.

~~Head of Development – Wetzel's Pretzels: Jon Fischer~~

~~Mr. Fischer serves as Head of Development – Wetzel's Pretzels as of March 2023. Previously, Mr. Fischer served as the Wetzel's Pretzels Chief Development Officer from October 2019. In his role, Mr. Fischer is responsible for Wetzel's Pretzels franchise development, including real estate development for franchised outlets. Prior to that, Mr. Fischer held a variety of Vice-President positions, including in real estate and development, at Papa Murphy's International from August 2014 to October 2019.~~

Sr. Director of Franchise Sales: Adam Lueras

Mr. Lueras became the Director of Franchise Sales for Wetzel's Pretzels effective March 2020 and was promoted to Sr. Director of Franchise Sales in February 2023. Mr. Lueras previously served as a Franchise Development Director with Jackson Hewitt Tax Service in Jersey City, New Jersey from March 2019 through November 2019. Prior to that, Mr. Lueras served as a Franchise Development Director with Wyndham Hotel Group in Parsippany, New Jersey from March 2016 through July 2018. Prior to that, Mr. Lueras served as a National Sales Manager with Avalara Software in Seattle, Washington from February 2014 through March 2016.

Director of Franchise Sales – Non-Traditional: Ross Duggal

Mr. Duggal became the Director of Franchise Sales – Non-Traditional for Wetzel's Pretzels effective July 2022. Mr. Duggal previously served as the Senior Director of Business Development for OLM Foods located in Sioux Falls, South Dakota from June 2020 through July 2022. Prior to

determination that Kahala is permitted and entitled to set off amounts owed to it by Koho with funds in its possession which would otherwise have been due Koho; (iv) costs; (v) attorneys' fees; (vi) punitive damages; and (vii) prejudgment interest; (viii) any other relief the Court deems just and proper. On or about June 15, 2015, Koho filed a Notice of Hearing on Demurrer and Demurrer to Kahala's Cross-Complaint; Memorandum of Points and Authorities; Declaration of Daniel D. Hoffman and Exhibits in Support Thereof. Koho filed its Notice of Motion and Motion to Strike Certain Portions of Kahala's Cross Complaint; Memorandum of Points and Authorities on June 17, 2015. On October 16, 2015, the Court overruled Koho's Demurrer to Kahala's Cross Complaint in its entirety and denied their motion to strike Kahala's punitive damages claims; the Court sustained the Demurrer as to Hannah Kim. Mediation was held on May 3, 2016, which failed to yield a settlement between the two parties. On May 5, 2016, Kahala dismissed the claims against Koho and Kyle Chung because they satisfied the debts owed to Kahala, and, therefore, the claims were moot. Hannah Kim was subsequently awarded attorney's fees on June 15, 2016, in the amount of \$10,233. A bench trial commenced on June 15, 2016, and ended on June 16, 2016. Upon the conclusion of Koho's case, Kahala presented its case-in-chief and moved for judgment pursuant to Code of Civil Procedure section 631.8. The Court granted Kahala's Judgment as Koho failed to establish the requisite elements of "breach" and "damages" on the three causes of action asserted in the Complaint. On July 18, 2016, the Court awarded Kahala attorneys' fees in the amount of \$205,000. On September 22, 2016, Koho filed a Notice of Filing of Notice of Appeal and requested that Kahala participate in a mediation to resolve the outstanding award to Kahala. Koho failed to post an appeal bond. On February 13, 2017, Kahala commenced its self-help pursuant to Section 8(i) and (j) of the ARA and began withholding 100% of the Area Representative fees to which Koho would have otherwise been entitled. On June 19, 2017, the parties entered into a settlement agreement whereby Kahala repurchased Koho's Area Developer territory for the sum of \$75,000 and forgave the remaining damages owed in the amount of \$130,000.

~~Texas Nrgize #1, Inc. v. Kahala Franchising, L.L.C. and Kahala Holdings, L.L.C.; 67<sup>th</sup> Judicial District Court, Tarrant County, Texas; Civil Action No.: 067-272652-14 subsequently removed to United States District Court for the Northern District of Texas; Case No.: 4:14-cv-544-Y.~~

~~On or about June 18, 2014, Texas Nrgize #1, Inc., an Nrgize franchisee ("Plaintiff"), filed a Petition and Request for Disclosure against Kahala Franchise Corp and Kahala Holdings, L.L.C. (collectively "Defendants") alleging (i) violations of the Texas Business Opportunities Act, Tex. Bus. & Comm. Code §§ 51.001 and the Texas Deceptive Trade Practices Consumer Protection Act, Tex. Bus. & Comm. Code §17.46, and (ii) Breach of Contract and Warranties. Plaintiff sought: (i) economic damages in excess of \$200,000, plus treble damages and pre and post judgment interest at the maximum rates allowed by law; (ii) attorneys' fees and costs; and (iii) such other relief to which the Plaintiff may be justly entitled. On July 16, 2014, Defendants filed a Notice of Removal to the United States District Court for the Northern District of Texas. On July 24, 2014, the judge executed the Order Granting the Unopposed Motion to Substitute Parties and Changing Case Style. Kahala Franchising, L.L.C. ("Defendant") was substituted in as a defendant instead of Kahala Franchise Corp. On July 28, 2014, Defendant filed a Motion to Transfer Pursuant to 28 U.S.C. §1404(A) and Brief in Support. This motion sought an order to transfer the litigation to the United States District Court for the District of Arizona pursuant to the parties' forum selection clause contained in the franchise agreement. On August 1, 2014, Defendant filed its Answer, Counterclaim and Third Party Claim. The Counterclaim was against Plaintiff and the Third Party Claim was filed against Duane W. Martin, Argentina Saldivar, and Margena Wood ("Third Party~~

Defendants"). Defendant alleged: (i) Breach of Franchise Agreement against Plaintiff, and (ii) Breach of Guaranty against Third Party Defendants. Defendant sought: (i) judgment against Plaintiff and the Third Party Defendants in an amount to be proven at trial; (ii) attorneys' fees; (iii) costs pursuant to A.R.S. §§12-341 and 12-341.01 and the parties' contractual agreements; and (iv) any other relief the Court deemed fit. Plaintiff filed its Response to Defendant's Motion to Transfer Pursuant to 28 U.S.C. §1404 (A) and Brief in Support on August 18, 2014, then filed its Answer to Defendant's Counterclaim on August 22, 2014. On August 28, 2014, Defendant filed its Reply in Support of Motion to Transfer Pursuant to 28 U.S.C. § 1404(A) and Brief in Support. On September 24, 2014, the United States District Court for the Northern District of Texas Court requested that each party submit a supplemental brief to benefit the Court in resolving the Defendant's Motion to Transfer. Mediation was held on September 29, 2014, but the parties failed to come to an agreement. On October 17, 2014, Third Party Defendants filed their Answer and Counterclaim. Third Party Defendants alleged: (i) violations of the Texas Business Opportunities Act, Tex. Bus. & Comm. Code §§ 51.001 and the Texas Deceptive Trade Practices Consumer Protection Act, Tex. Bus. & Comm. Code §17.46, and (ii) breach of contract and warranties. Third Party Defendants sought: (i) economic damages in excess of \$200,000, plus treble damages under the Code and pre and post judgment interest at the maximum rates allowed by law; (ii) attorney's fees; (iii) costs; and (iv) any other general or special relief that the Court deemed fit. On October 24, 2014, Defendant filed its Supplemental Briefing In Support of Its Motion to Transfer Pursuant to 28 U.S.C. §1404(A). On November 10, 2014, Defendant filed its Answer to the Third Party Counterclaims. On November 13, 2014, Defendant filed its Notice of Dismissal Without Prejudice as to Third Party Defendant Argentina Saldivar only. On November 14, 2014, Plaintiff filed its Response to Defendant's Supplemental Briefing In Support of Their Motion to Transfer Pursuant to 28 U.S.C. §1404(A). On November 26, 2014, Defendant filed its Reply to Plaintiff's Response to Defendant's Supplemental Briefing in Support of Its Motion to Transfer Pursuant to 28 U.S.C. §1404(A). On February 24, 2015, the Court granted Defendant's Motion to Transfer the case to the United States District Court of the District of Arizona; Phoenix Division; Case No.: CV15-0337 PHX DGC. In April 2015, Plaintiff moved to compel arbitration which was ultimately denied by the Court. The parties participated in a mediation in August 2015 which was unsuccessful. In December 2015, the parties executed a settlement agreement in which Defendant paid Plaintiff the sum of \$35,000. The parties filed a Stipulation to Dismiss With Prejudice on December 18, 2015.

**Concluded Arbitration and Litigation Involving SFF, L.L.C., successor in interest to SweetFrog Enterprises, L.L.C.**

Urquieta Sweet Frog, L.L.C. and Ana Urquieta v. SweetFrog Enterprises, L.L.C. d/b/a SFF, L.L.C., American Arbitration Association; Case No. 01-14-0001-8086.

On December 23, 2014, Urquieta Sweet Frog, L.L.C. and Ana Urquieta, a former sweetFrog franchisee and its owner (collectively "Plaintiffs"), filed a Demand for Arbitration against SweetFrog Enterprises, LLC ("Defendant"). Plaintiffs alleged: (i) Defendant engaged in fraud; (ii) unfair practices; and (iii) deceptive actions. On February 2, 2015, Defendant timely filed an Answer and Counterclaim and denied all allegations, and further asserted a counterclaim against Plaintiffs for unpaid royalties. This matter was settled in December of 2015. Under the settlement, Defendant agreed to pay Plaintiffs \$300,000 and the parties executed mutual releases.

SFF, L.L.C. v. Carmel Village Yogurt Company L.L.C.; City of Richmond, Virginia Circuit Court; Case No. CL16-3927.

On August 29, 2016, SFF, L.L.C. ("Plaintiff") filed a lawsuit against three sweetFrog franchisee entities, Carmel Village Yogurt Company L.L.C. ("Defendant Carmel YC"), Huntersville Yogurt Company, L.L.C. ("Defendant Huntersville YC"), and Mooresville Yogurt Co, L.L.C. ("Defendant Mooresville YC"), and their main member, Steve Anto ("Defendant Anto"); (all named Defendants collectively referred to as, "Anto Defendants"). Plaintiff alleged: (i) Defendant Carmel YC breached its franchise agreement through its unauthorized closure of its franchised shop; and (ii) as a result of the breach, Plaintiff had the contractual right to terminate Defendant Carmel YC's franchise agreement and cross terminate the franchise agreements of Defendant Huntersville YC and Defendant Mooresville YC. Plaintiff sought: (i) declaratory judgment that the three franchise agreements had terminated; (ii) specific performance of the Anto Defendants' post-termination obligations; (iii) damages for past due fees; (iv) lost future royalties in excess of \$116,000; and (v) recovery of its attorneys' fees. In response to Plaintiff's complaint, Anto Defendants denied Plaintiff's claims and asserted counterclaims against Plaintiff and alleged: (i) Defendant Carmel YC's franchise agreement was unenforceable and, alternatively, that Plaintiff was in breach of Defendant Carmel YC's franchise agreement due to Plaintiff's allowance of another franchisee to open a shop within three miles of Defendant Carmel YC's shop. Anto Defendants sought: (i) a declaratory judgment that they were not in default of their franchise agreements; (ii) damages of not less than \$425,000; and (iii) recovery of their attorneys' fees. Plaintiff denied Anto Defendants' claims and filed a demurrer and pleas in bar seeking to have those claims dismissed. Prior to the court hearing and ruling on Plaintiff's motion, the parties entered into an agreement pursuant to which: (i) the parties acknowledged the valid termination of Defendant Carmel YC's franchise agreement; (ii) Defendant Carmel YC transferred the assets of its business to Plaintiff and Plaintiff paid Defendant Carmel YC \$25,000; (iii) Plaintiff reinstated Defendant Huntersville YC's and Defendant Mooresville YC's terminated franchise agreements; and (iv) Plaintiff granted Defendant Anto the right to develop a new sweetFrog shop at a mutually acceptable location on or before November 8, 2018. The case was dismissed with prejudice on December 15, 2016.

**Concluded Arbitration and Litigation Involving Fresh Enterprises, L.L.C. successor in interest to BF Acquisition, L.L.C.**

*Fresh Enterprises, L.L.C. v. Ledang Investment Group, L.L.C., Vincent Tienn Le, Ho Tien Le and Hue Thi Dang* Superior Court of the State of California, County of Santa Clara, Case No. 1-13-CV-257219.

On July 2, 2013, Fresh Enterprises, L.L.C., as successor in interest to Baja Fresh Westlake Village, Inc. ("Plaintiff"), filed a complaint against Ledang Investment Group, L.L.C.; Vincent Tien Le, Ho Tien Le and Hue Thi Dang (collectively "Defendants Ledang" or "Cross Claimants Ledang") for: (i) implied indemnity; (ii) equitable indemnity; (iii) express indemnity; (iv) breach of contract; (v) declaratory relief seeking unspecified damages; (vi) indemnification; (viii) a judgment of unlawful detainer; and (ix) declaration that Defendants Ledang were obligated to reimburse Plaintiff for various expenses. On January 6, 2014, Cross Claimants Ledang filed a Cross-Complaint against Plaintiff, Baja Fresh Westlake Village, LLC, Triune Corporation and National Franchise Sales, Inc. (collectively "Counter Defendants") for: (i) breach of contract; (ii) breach of covenant of good faith and fair dealing; (iii) negligent misrepresentation; and (iv) intentional misrepresentation. On February 19, 2014, Counter Defendants filed a Motion to Compel Arbitration, which was granted. The disputes between the parties were then arbitrated before the American Arbitration Association (Case Number 72-20-1400-0126). On February 2, 2015, the Arbitrator issued an award in favor of Cross Claimants Ledang in the amount of \$660,620.84.

~~The parties entered into a Settlement and Release Agreement on July 20, 2015, under which Counter Defendants paid the Cross Claimants Ledang the sum of \$585,000 and the matter was dismissed with prejudice.~~

### **Concluded Arbitration and Litigation Involving Famous Dave's of America, Inc.**

*Desert Ribs, L.L.C., Famous Gracie, L.L.C., Famous Freddie, L.L.C., Famous George, L.L.C. and Famous Charlie, L.L.C. v. Famous Dave's of America, Inc., American Arbitration Association, Minneapolis, Minnesota, Case No. 01 16 0000 8549.*

On March 14, 2016, the franchisees for the Famous Dave's® Restaurants in Chandler, Peoria, Mesa and Gilbert, Arizona ("Claimants") filed a Demand for Arbitration against Famous Dave's alleging that Famous Dave's (1) violated the Minnesota Franchise Act ("MFA"), (2) breached the implied covenant of good faith and fair dealing under the Famous Dave's® Franchise Agreements with Claimants (the "Franchise Agreements"), and (3) breached certain express provisions of the Franchise Agreements. Claimants sought damages of \$2,984,098, and a permanent injunction prohibiting Famous Dave's from engaging in discriminatory conduct in violation of the MFA. On July 20, 2016, the arbitrators ruled in partial favor of the pre-hearing motion filed by Famous Dave's by dismissing Claimants' MFA claims against Famous Dave's. Upon the dismissal of the MFA claims, Claimants voluntarily dismissed their remaining claims against Famous Dave's and entered into a confidential settlement agreement and mutual release (the "Settlement Agreement"), dated August 22, 2016, with Famous Dave's. The Settlement Agreement included the following material terms: (i) the territorial rights granted to Claimants in the Franchise Agreements were modified; (ii) the managing member of Claimants (the "Consultant") entered into a consulting agreement with Famous Dave's that provided for the design, development and build-out of a counter-service/line-service prototype barbecue restaurant concept (the "Prototype") and the payment of a consulting fee of \$410,000 to the Consultant in installments over a three-year period; and (iii) Claimants entered into a right of first offer agreement with Famous Dave's granting to a Claimant the first right to enter into an area development agreement with Famous Dave's for the development of seven Prototype restaurants in a reserved territory in Arizona.

*Famous Dave's of America, Inc. v. Allan Gantes; John Gantes; M Mart 1, LLC; Kurt Schneider; Shoreline FD Investors, L.L.C.; SR El Centro FD, Inc. SR Long Beach FD, Inc.; SR Palmdale FD, Inc.; SR Restaurant Holdings Group, Inc.; SR Simi Valley FD, Inc.; SR Tracey FD, Inc., Superior Court of the State of California, County of Los Angeles, Central Division, Case No. BC589329.*

On July 24, 2015, Famous Dave's of America, Inc. filed a lawsuit against Allan Gantes; John Gantes; M Mart 1, L.L.C.; Kurt Schneider; Shoreline FD Investors, LLC; SR El Centro FD, Inc.; SR Long Beach FD, Inc.; SR Palmdale FD, Inc.; SR Restaurant Holdings Group, Inc.; SR Simi Valley FD, Inc.; SR Tracey FD, Inc., (collectively referred to herein as "Defendants") (SR El Centro FD, Inc.; SR Long Beach FD, Inc.; SR Palmdale FD, Inc.; SR Restaurant Holdings Group, Inc.; SR Simi Valley FD, Inc.; SR Tracey FD, Inc. will herein be referred to as the "SR Defendants"), the former franchisees for the Famous Dave's® Restaurants in El Centro, Long Beach, Palmdale, Simi Valley, and Tracy, California, and others (collectively referred to herein as "Restaurants") based in part on the continued operation of the Restaurants as Famous Dave's® Restaurants using Famous Dave's Marks and Restaurant System after the termination of their Franchise Agreements by Famous Dave's for failure to cure breaches of the Franchise Agreement, including the failure to pay the Royalty and Marketing Fund Fees due under the Franchise Agreements, within the prescribed cure period after receipt of written notice, in violation of the post-termination

with, a deferral condition in their Franchise Agreements that was imposed upon it by the State of Maryland, all as required by the Maryland Franchise Registration and Disclosure Law (the "Maryland Law") and in violation of the Maryland Law. Without admitting or denying the allegations, in September 2012, Triune voluntarily entered into a Consent Order with the Office of the Attorney General of Maryland and agreed to: (i) not violate the Maryland Law in the future; (ii) pay the Office of the Attorney General the sum of \$50,000 as a civil penalty; (iii) retain copies of all acknowledgments of receipt confirming dates that prospective Maryland franchisees received any Maryland Franchise Disclosure Documents; (iv) comply with the disclosure and antifraud provisions of the Maryland Franchise Law and the record keeping and escrow requirements of the Code of Maryland Regulations; and (v) send a copy of the Consent Order to certain Maryland franchisees.

#### State of Virginia Determination; Case Number SEC-2012-00027.

In February 2012, the Division of Securities and Retail Franchising of the State Corporation Commission (the "Commission") alleged that during 2009 Triune, LLC ("Triune"): (i) offered or sold franchises in Virginia in 2009 that were not registered under the Virginia Retail Franchising Act (the "Virginia Act"); (ii) offered or sold franchises in Virginia without disclosing that it was not registered to do so; (iii) failed to provide material information regarding the parent company's unfavorable financial condition and the potential impact that it could have on Triune as stated in a going concern note in its 2008 financial statements from its auditors; and (iv) failed to provide a prospective franchisee with a copy of its Franchise Disclosure Document as required by rule or order of the Commission at least 14 calendar days before the prospective franchisee signed a binding agreement or made any payment to it in connection with the sale or offer to sell a franchise in Virginia. Without admitting or denying the allegations, on November 26, 2012, Triune voluntarily entered into a Settlement Order with the Commission and agreed: (i) to not violate the Virginia Act in the future; (ii) to pay Virginia the sum of \$25,000 as a penalty and the sum of \$5,000 to defray the Commission's costs of investigation; (iii) to offer certain Virginia franchisees a refund of their initial franchise fees; and (iv) to send a copy of the Settlement Order to certain Virginia franchisees.

#### **Lawsuits Filed by Franchisor Kahala Franchising, L.L.C. Against Franchisees During Fiscal Year December 1, 2024<sup>3</sup> through November 30, 2025<sup>4</sup>**

##### Suit for Breach of Contract

*Kahala Franchising, L.L.C. v. Golden Enterprises, Inc.; DBH Associates, LP, Deseret Sales, Inc., Randy Herzog, Laurie Herzog, Amy Wilson, Rob Wilson, Clare Hunter, Deobrah Hunter; United States District Court in and for the Eastern District of Washington; Case No.: 2:25-cv-00426.*~~*Kahala Franchising, L.L.C. v. All About Food, Inc. and Chu Yup Lee a/k/a Michale Lee; In the Circuit Court of the Nineteenth Judicial Circuit Lake County, Illinois; Case No.: 2024LA000000001.*~~

*Kahala Franchising, L.L.C. v. Mid Valley Foods, Inc., Candyce Dilbeck, Steve Hopkins, Gegory M. Hopkins; United States District Court in and for the District of Arizona; Case No.: 2:25-cv-04166-KML.*

Suit for Federal Trademark Infringement, Lanham Act, 15 U.S.C. §1124; Common Law Trademark Infringement; Federal Unfair Competition, Lanham Act, 15 U.S. C. §1125; Common Law Unfair Competition; Breach of Contract; Unjust Enrichment; Audit Demand/Accounting

Kahala Franchising, L.L.C. v. Byron Washington and Bram Berg; United States District Court for the Southern District of New York; Case No.: 1:25-cv-06392.

Suit for Forcible Entry and Detainer

~~Cold Stone Creamery Leasing Company, Inc. v. JRF, Inc.; Iowa District Court for Dallas County; Case No.: SCSC050015.~~

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

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

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

#### **ITEM 5. INITIAL FEES**

##### Initial Fees.

The Initial Franchise Fee for a single unit *Built Custom Burgers* restaurant franchise is \$30,000. The Initial Franchise fee for a non-traditional restaurant is \$25,000. It is payable in full when you sign the Franchise Agreement and is non-refundable.

If you are currently an active or active reserve member of the U.S. Armed Forces, have been honorably discharged from the U.S. Armed Forces (“Eligible Military”), or if the franchisee is a federally recognized 501(c)(3) organization (“501(c)(3)”), you will receive a 20% discount on the Initial Franchise Fee,

The initial fees to be paid to us and/or our affiliate(s) before the franchisee’s business opens are indicated on the chart below and in the notes to the chart. The initial fees to be paid to us and/or our affiliate(s) before the franchisee’s business opens ~~(not including any Lease Guaranty Fee)~~ are the total of the Initial Franchise Fee, ~~G~~grand ~~O~~opening ~~M~~marketing, and lease review fee (if any), ~~lease guarantee (if any), and site review report fee,~~ and 50% of the estimated ~~Opening Team Expenses,~~ and ranges from ~~\$4034,000 to \$852,500~~ for a traditional Franchised Location and from ~~\$3125,000 to \$742,500~~ for a non-traditional franchise. ~~These amounts do not include the Document Administration Fee.~~

##### Site Review Report Fee

You will pay to Franchisor the then-current Site Review Report Fee after Franchisor prepares a site review report and issue a “no brand standard objection” letter for the proposed site of your Restaurant. The current Site Review Report Fee is \$1,000 to \$5,000, and may increase if a site visit is required. The Site Review Model Report Fee is nonrefundable.

##### Opening Team Expenses

You will reimburse *Built Custom Burgers* for the Travel Expenses and the prorated Salaries and Benefits for the Opening Team members who assist you with the opening of your Restaurant (see Item 11). These expenses are nonrefundable and will typically range between \$10,000 and \$50,000, but may be lower or higher depending upon the service model and the location of your Restaurant. You will pay to *Built Custom Burgers* 50% of the estimated Opening Team Expenses for your Restaurant, which *Built Custom Burgers* will determine based on the size of the Opening Team, distance traveled, and other factors, before the date that the Opening Team arrives at your Restaurant. Upon completion of the Opening Team's assistance, *Built Custom Burgers* will send you an invoice for the actual amount of remaining Opening Team costs. You must pay this invoice within 30 days.

There are no refunds of the Initial Franchise Fee under any circumstances.- We may periodically reduce the Initial Franchise Fee in connection with limited time promotions, new concepts and/or operational programs.- We may vary the terms of our franchises in connection with testing new marketing, branding and/or operational programs.- These tests are generally conducted with experienced, existing franchisees and may include incentives and other rights which are not available to all franchisees.- If you sign the Franchise Agreement in connection with a transfer or renewal, you will not pay the Initial Franchise Fee.

We may offer you the option to purchase a license to sell additional signature products in your Built Custom Burgers Restaurant and to use the signature products trademark(s) as signature products are developed.- We estimate that the fees associated with acquiring license(s) to sell additional products will be between \$9,000 and \$12,000 although these license fees may be modified from time to time.

| Type of Expenditure                              | Amount                                                             | Method of Payment | When Due                                                                                                                     | To Whom Pmt. Is Made       |
|--------------------------------------------------|--------------------------------------------------------------------|-------------------|------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| Initial Franchise Fee – Traditional Location     | \$30,000 (reduced to \$24,000 for Eligible Military and 501(c)(3)) | Lump Sum          | Signing of the Franchise Agreement                                                                                           | Us\$ (Note 1)              |
| Initial Franchise Fee – Non-Traditional Location | \$25,000 (reduced to \$20,000 for Eligible Military and 501(c)(3)) | Lump Sum          | Signing of the Franchise Agreement                                                                                           | Us\$ (Note 1)              |
| <u>Site Review Report Fee</u>                    | <u>\$1,000 to \$5,000</u>                                          | <u>Lump Sum</u>   | <u>After Franchisor prepares a site review report and issue a “no brand standard objection” letter for the proposed site</u> | <u>Us or our affiliate</u> |

| Type of Expenditure               | Amount                                                                                           | Method of Payment        | When Due                                                                         | To Whom Pmt. Is Made                                                         |
|-----------------------------------|--------------------------------------------------------------------------------------------------|--------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| <u>Opening Team Expenses</u>      | <u>\$10,000 to \$50,000 (1)</u>                                                                  | <u>Two Installment s</u> | <u>50% prior to Opening Team's arrival, balance after Opening Team's Arrival</u> | <u>Us or our affiliate</u>                                                   |
| Grand Opening Marketing           | \$10,000 for a traditional store or \$5,000 for a non-traditional store (Note 4)                 | Lump Sum                 | Earlier of; prior to execution of a lease or prior to construction of premise    | -Us\$ (Note 1)                                                               |
| Lease Guarantee Fee<br>(optional) | 10% of the total amount guaranteed, up to a maximum payment of \$10,000 (if applicable) (Note 2) | Lump Sum                 | Signing of the lease guarantee agreement (if applicable)                         | MTY Franchising USA, Inc. or its affiliate who guarantees the lease (Note 1) |
| Lease Review Fee<br>(optional)    | \$0 to \$2,500 (Note 3)                                                                          | Lump Sum                 | When you request review by Kahala Management's real estate department            | MTY Franchising USA, Inc. or its affiliate (Note 1)                          |

The above fees will be used for franchise support, training, and working capital.

Notes:

(1) There are no refunds under any circumstances. Built does not offer any financing of the Initial Franchise Fee.- We may periodically reduce the Initial Franchise Fee in connection with limited time promotions, new concepts and/or operational programs.

(2) If, after a request by you, Built or any of its affiliates agree, in their sole and absolute discretion, to guarantee your lease with the applicable third party landlord for the Built Restaurant you are developing, you will pay Built or its affiliate a lease guarantee fee in the amount of 10% of the total amount of the rental obligations being guaranteed under the lease upon the execution of the lease and associated guarantee with the third party landlord, up to a maximum payment of \$10,000.- This fee is not refundable (See Exhibit M: Lease Guaranty Acknowledgement).

(3) If, prior to executing the lease, you request Built's real estate department review your lease and provide suggested changes to you, a \$2,500 lease review fee shall be paid by you to Built ("Lease Review Fee") upon your request to Built's real estate department.- The Lease Review Fee is non-refundable.- This is an optional service, with the determination of whether to utilize Built's real estate department to be made in your sole discretion.

(4) You are required to pay a Grand Opening Marketing fee of \$10,000 for a Traditional store or \$5,000 for a Non-Traditional store payable to U.S. on the earlier of (i) prior to you executing a lease for the premises where the Franchised Business will be located; or (ii) prior to construction commencing at the premises where the Franchised Business will be located. We or our designated affiliate will create a marketing plan for (i) a grand opening event at your Franchised Business, and (ii) the initial advertising of your Franchised Business, and will work with you to obtain your input on the marketing plan.- We or our designated affiliate will use the Grand Opening Marketing fee to pay for the grand opening and initial advertising, but may, in our sole discretion, reimburse you for some local store marketing expenses that you pay if you received our prior approval and we received your reimbursement request within six (6) months from the opening of your Franchised Business to the public. -The Grand Opening Marketing fee should be used within six (6) months of the opening of your Franchised Business to the public.- However, if a portion of the Grand Opening Marketing fee is not used within those six (6) months, we may, in our sole discretion, and without prior notice, spend-transfer the remaining portion of the Grand Opening Marketing fee after six (6) months from the opening of your Franchised Business to the public to the National Advertising Fund.

#### **ITEM 6. OTHER FEES**

All of the following continuing fees are payable under the Franchise Agreement:

| <b><u>NAME OF FEE</u></b>                                                                     | <b><u>AMOUNT</u></b>                                                                                                                                                    | <b><u>DUE DATE</u></b>                                                    | <b><u>REMARKS</u></b>                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Royalty Fee and Surcharge for Traditional and Non-Traditional locations<br><br>(Note 1 and 9) | 5.0% of Gross Sales<br>Surcharge is a maximum of \$10 per week in addition to the Royalty Fee.                                                                          | Withdrawn electronically from you Depository Account each Monday (Note 3) | "Gross Sales" include all revenue from the franchised business excluding sales tax and authorized refunds, credits and allowances.                                            |
| Advertising Fees<br><br>(Note 1)                                                              | 1% of Gross Sales, with the right to increase Advertising Fees to a maximum of 3% of Gross Sales.                                                                       | Same as Royalty Fee (Note 3)                                              | Currently, Advertising Fee is 1% of weekly Gross Sales, which goes to the Advertising Fund (Note4)                                                                            |
| Additional Persons Training Fee<br>(Note 1)                                                   | \$1,250 per person (\$500 per person for the In-Store portion of the Training Program, and \$750 per person for the New Owner Training portion of the Training Program) | Two weeks prior to beginning of training                                  | The training of three individuals is included in the Initial Franchise Fee. The Additional Persons Training Fee is for any additional persons who attend the Training Program |
| Additional Training Fee                                                                       | \$300 per person per day                                                                                                                                                | At time of training                                                       | Payable if we require or you request additional training after attending the Training Program.                                                                                |

| <b><u>NAME OF FEE</u></b>                | <b><u>AMOUNT</u></b>                                                                                                                                                                                                                                               | <b><u>DUE DATE</u></b>                                                                       | <b><u>REMARKS</u></b>                                                           |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| <u>Lease Guarantee Fee</u><br>(optional) | 10% of the total amount guaranteed, up to a maximum payment of \$10,000 (if applicable) (Note 10)                                                                                                                                                                  | <u>Signing of the lease guarantee agreement (if applicable)</u>                              | <u>See Note 10</u>                                                              |
| <u>Reimbursement of Taxes</u>            | We may seek reimbursement from you the cost of all taxes, assessments and similar charges we incur arising from your operation of the Franchised Business or our licensing of intellectual property to you in the state where your Franchised Business is located. | <u>Payable monthly by electronic funds transfer at same time as royalty and service fee.</u> | <u>Only imposed if government authority collects these taxes or assessments</u> |

### **The Following Notes Accompany Item 6 Disclosures**

#### **Notes:**

(1) These fees are collected by us, are payable to Built or its affiliate, and are non-refundable. These fees are uniformly imposed by Built; however, Built, in its sole discretion, may reduce or waive a one-time fee (i.e., transfer franchise fee, renewal franchise fee, etc.) or may waive or reduce an ongoing fee (i.e., Royalty Fee or Advertising Fees) for a defined period of time.

(2) For Traditional and Non-Traditional *Built Custom Burger* Restaurants, the Royalty Fee will be 5% of the total weekly Gross Sales. In our sole discretion, we may charge, in addition to the Royalty Fee, a Surcharge of up to \$10 per week if your Franchised Business is located in a state that imposes additional reporting requirements on a franchisor. Currently, New York is the only state that has imposed the additional reporting requirements.

(3) At the time you sign the Franchise Agreement, you will set up a depository account of a minimum of \$3,000 with your local banking institution. You are required to maintain a minimum balance of \$3,000 in this account at all times. This will mean that you must replenish the depository account to \$3,000 after Built makes any withdrawals. (A Pre-Authorized Electronic Funds Transfer Form by and payable to Franchisor is attached as Exhibit P).

(4) Built directs that Advertising Fees be paid to us, a national advertising fund ("National Fund") designated by us, and/or, in our sole discretion, to a designated approved regional advertising fund ("Regional Fund," and together with the National Fund, the "Advertising Fund" or "Fund"). Upon thirty (30) days' notice by us to you, we may unilaterally increase the Advertising Fee from its current level not to exceed four percent (4%) of your weekly Gross Sales. We encourage the formation of franchisee cooperative advertising associations (each a "Cooperative"). Currently, there are no Built Cooperatives, and therefore; no fees imposed by Cooperatives. Built reserves the right to require Cooperative contributions in the future. If a

Cooperative is formed for your region, you must financially contribute to the Cooperative as required by us. Failure to do so will be deemed a breach of the Franchise Agreement and you may also, in Franchisor's sole discretion, or lose your right to vote on decisions the Cooperative makes. The membership of the Cooperative is defined by us according to your market area. For each of our company-owned or affiliate-owned restaurants, it's our policy that such restaurants make contributions to the Fund at a rate equal to the lowest rate a franchisee is then-required to contribute. Corporate or affiliate-owned outlets have the same voting power as franchisee owned outlets.

(5) If we hold an annual meeting ("Meeting"), the Meeting will be held at various locations throughout the United States and/or online as we may designate in our sole discretion, and may offer valuable continuing education programs. Because the planning and funding of the Meeting must be done well in advance and requires a substantial financial commitment, we have the right to debit your Depository Account for the Annual Meeting Registration Fee up to \$1,000 at any time 60 to 90 days prior to the first day of the Meeting. This fee is not refundable and will be debited from all franchisees' accounts (even if you do not attend the Meeting). If you do not attend the Meeting, we will make available to you one full set of the substantive materials that were presented at the Meeting.

(6) Reserved.

(7) The Document Administration Fee in the amount of \$500 will only be charged to you if an amendment to your franchise documents must be prepared.

(8) Interest begins from the date of the underpayment.

(9) Franchisor has the absolute right to charge Franchisee the greater of: three (3) times the fixed Royalty fee; or, if on a percentage Royalty fee the Royalties may be increased to up to eighteen percent (18%) of Gross Sales, with respect to any period during which Franchisee is in breach or default of its/his/her obligations under this Agreement. The Royalties paid or owing to Franchisor with respect to the period during which Franchisee is in breach or default are referred to as "Breaching Royalties." Breaching Royalties will be charged for a minimum fourteen (14) day period, regardless of the length of the actual breach or default.

(10) If, in order to obtain the lease agreement for the site of your *Built Custom Burgers* restaurant, the landlord requires you to obtain a third party lease guarantee, and we or one of our affiliates agrees to serve as such guarantor (with such determination to be made in our sole and absolute discretion), you will pay to us a lease guarantee fee in the amount of 10% of the total amount of the rental obligations being guaranteed under the lease during its term up to a maximum payment of \$10,000.

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

The chart assumes that you lease improved real estate and do not purchase the land or building. We include rent, but do not include real estate acquisition costs in **Item 7**.

| CATEGORY OF EXPENDITURES                                                                                                  | LOW ESTIMATE             | HIGH ESTIMATE                | METHOD OF PAYMENT | WHEN DUE           | TO WHOM PAYMENT IS MADE                                             |
|---------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------|-------------------|--------------------|---------------------------------------------------------------------|
| Inventory (Proprietary Products; Non-Proprietary Products) (Note 13)                                                      | \$7,500                  | \$20,000                     | As Arranged       | As Arranged        | Us, one of our affiliates and other approved vendors and suppliers. |
| Site Review Report Fee (4)                                                                                                | <u>\$1,000</u>           | <u>\$5,000</u>               | <u>Lump Sum</u>   | <u>As Arranged</u> | <u>Us or our affiliate</u>                                          |
| Insurance (Note 14)                                                                                                       | \$5,000                  | \$10,000                     | As Arranged       | As Arranged        | Miscellaneous third parties                                         |
| Grand Opening Advertising (Note 15)                                                                                       | \$10,000                 | \$10,000                     | As Arranged       | As Arranged        | Us\$                                                                |
| Wine/Beer or Full Liquor License (Note 16)                                                                                | \$0                      | \$25,000                     |                   |                    | Government agency or prior license holder                           |
| Miscellaneous costs to begin operations and Additional Funds (working capital) for first 3 months of operations (Note 17) | \$50,000                 | \$100,000                    | As Arranged       | As Arranged        | Miscellaneous third parties. See Note 10.                           |
| <b>Total (Note 18)</b>                                                                                                    | <b><u>\$4187,500</u></b> | <b><u>\$1,007012,000</u></b> |                   |                    |                                                                     |

**YOUR ESTIMATED INITIAL INVESTMENT  
NON-TRADITIONAL LOCATIONS**

| CATEGORY OF EXPENDITURES                                 | LOW ESTIMATE | HIGH ESTIMATE | METHOD OF PAYMENT | WHEN DUE                                                              | TO WHOM PAYMENT IS MADE |
|----------------------------------------------------------|--------------|---------------|-------------------|-----------------------------------------------------------------------|-------------------------|
| Initial Franchise Fee non-traditional locations (Note 1) | \$20,000     | \$25,000      | Cash              | Lump sum on signing the Franchise Agreement                           | Us\$                    |
| Lease Review Fee                                         | \$0          | \$2,500       | Lump Sum          | When you request review by Kahala Management's real estate department | Us                      |
| Travel and Living Expenses- 2 to 5 persons) while        | \$5,000      | \$30,000      | As Incurred       | During Training                                                       | Airlines, Hotels,       |

| <b>CATEGORY OF EXPENDITURES</b>                                                                                                                                                         | <b>LOW ESTIMATE</b> | <b>HIGH ESTIMATE</b> | <b>METHOD OF PAYMENT</b> | <b>WHEN DUE</b>  | <b>TO WHOM PAYMENT IS MADE</b>                                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------------|--------------------------|------------------|---------------------------------------------------------------------------------|
| training, not including salaries, if any, for you <del>r</del> and your employees (Note 2)                                                                                              |                     |                      |                          |                  | Restaurants, etc.                                                               |
| Rent/Security Deposit (for 3 months) (Note 3)                                                                                                                                           | \$12,500            | \$20,000             | As Arranged              | Prior to Opening | Landlord(s)                                                                     |
| Professional Design Fees (Architect, Engineer, Kitchen Designer) (Note 4)                                                                                                               | \$7,000             | \$17,000             |                          |                  | Approved Suppliers                                                              |
| Construction Costs and Leasehold Improvements (Note 5)                                                                                                                                  | \$150,000           | \$642,000            | As Arranged              | As Arranged      | Landlord, contractor, kitchen installer suppliers, construction management firm |
| Utility Hook Up and Impact Fees                                                                                                                                                         | \$5,000             | \$25,000             | As Arranged              | As Arranged      | Landlord, City/Municipality, Utility Providers                                  |
| Kitchen Equipment Package (Note 6)                                                                                                                                                      | \$70,000            | \$168,000            | As Arranged              | As Arranged      | Approved Suppliers                                                              |
| Furniture, Fixtures and Equipment, (excluding Kitchen Equipment Package) Millwork, Counter tops, Trim, Booths and Banquettes, Lighting Fixtures, Audio Video, Security Cameras (Note 7) | \$50,000            | \$131,000            | As Arranged              | As Arranged      | Approved Suppliers                                                              |
| Computer and Software (POS System)                                                                                                                                                      | \$3,000             | \$7,000              |                          |                  | Approved Supplier                                                               |

| <b>CATEGORY OF EXPENDITURES</b>                                                                         | <b>LOW ESTIMATE</b> | <b>HIGH ESTIMATE</b> | <b>METHOD OF PAYMENT</b> | <b>WHEN DUE</b>    | <b>TO WHOM PAYMENT IS MADE</b>                                      |
|---------------------------------------------------------------------------------------------------------|---------------------|----------------------|--------------------------|--------------------|---------------------------------------------------------------------|
| Project Management and Construction Management, Expediting and Submission Service (Note 8)              | \$0                 | \$20,000             | As Arranged              | As Arranged        | Third Party Services                                                |
| Signs and Décor Items (Note 9)                                                                          | \$7,000             | \$20,000             | As Arranged              | As Arranged        | Approved Suppliers and vendors.                                     |
| Attorney and Accounting Fees (Note 10)                                                                  | \$2,500             | \$7,500              | As Arranged              | As Arranged        | Third party business attorney and accountant                        |
| Security Deposits (excluding real estate); Utility Deposits and Business Licenses and Permits (Note 11) | \$1,000             | \$10,000             | As Arranged              | As Arranged        | Equipment suppliers; government agencies; utility companies         |
| Tableware, Small Wares and Supplies (Note 12)                                                           | \$8,000             | \$12,000             | As Arranged              | As Arranged        | Wasserstrom and /or other approved third parties.                   |
| Inventory (Proprietary Products; Non-Proprietary Products) (Note 13)                                    | \$7,500             | \$20,000             | As Arranged              | As Arranged        | Us, one of our affiliates and other approved vendors and suppliers. |
| <u>Site Review Report Fee (4)</u>                                                                       | <u>\$1,000</u>      | <u>\$5,000</u>       | <u>Lump Sum</u>          | <u>As Arranged</u> | <u>Us or our affiliate</u>                                          |
| Insurance (Note 14)                                                                                     | \$5,000             | \$10,000             | As Arranged              | As Arranged        | Miscellaneous third parties                                         |
| Grand Opening Advertising (Note 15)                                                                     | \$5,000             | \$5,000              | As Arranged              | As Arranged        | -Us                                                                 |
| Wine/Beer or Full Liquor License (Note 16)                                                              | \$0                 | \$25,000             |                          |                    | Government agency or prior license holder                           |

| CATEGORY OF EXPENDITURES                                                                                                  | LOW ESTIMATE      | HIGH ESTIMATE         | METHOD OF PAYMENT | WHEN DUE    | TO WHOM PAYMENT IS MADE                   |
|---------------------------------------------------------------------------------------------------------------------------|-------------------|-----------------------|-------------------|-------------|-------------------------------------------|
| Miscellaneous costs to begin operations and Additional Funds (working capital) for first 3 months of operations (Note 17) | \$50,000          | \$100,000             | As Arranged       | As Arranged | Miscellaneous third parties. See Note 10. |
| <b>Total (Note 18)</b>                                                                                                    | <b>\$4098,500</b> | <b>\$1,297302,000</b> |                   |             |                                           |

### THE FOLLOWING NOTES ACCOMPANY THE ITEM 7 CHARTS

NOTE 1. Initial Franchise Fee. The Initial Franchise Fee includes the training fee for 2 individuals.

NOTE 2. Initial Training Program. At this time, we conduct Owner Orientation and Restaurant Management training at KTEC in Scottsdale, Arizona, online training, as well as an operating *Built Custom Burgers* restaurant in in one of our California locations, and other stores that we determine.

The low range reflects expenses to send 1 Primary Owner to Owner Orientation and 3 total individuals (1 of whom is the same Primary Owner), General Manager, and Kitchen Manager tracks of the Restaurant Management Modules. In other words, the low estimate assumes that a total of 3 persons attend the Restaurant Management Module depending on their job duties, at least 1 of whom is the Primary Owner who also attends Owner Orientation. The low estimate assumes that all participants reside locally and drive their own vehicles daily to the location training facility. The expenses that we show in the low range primarily consist of salary to the non-Primary Owner employees during training and a mileage allowance for 3 persons to drive to/from training.

The high range reflects expenses to send 1 Primary Owner to Owner Orientation and 3 different individuals (none of whom is a Primary Owner) to the Restaurant Management Module depending on their job duties. The high estimate assumes that you pay training fees for 1 person and incur air and ground travel costs, room and board expenses for a total of 3 individuals. The high estimate assumes 1 Primary Owner attends the Owner Orientation, 2 non-Primary Owners attend the General Manager, and Kitchen Manager track of the Restaurant Management Module.

NOTE 3. Rent/Security Deposit for First Three Months. To present you with the range of possible lease arrangements for a prototype *Built Custom Burgers* restaurant, the low estimate assumes a five hundred (500) square foot restaurant that is not in a lifestyle mall or comparable destination venue, and the high estimate assumes a 2,500 square foot restaurant in a premium urban lifestyle-type mall or comparable destination venue. Both the low and high estimates include rent and security deposit. Rental rates vary considerably by geographic market, size and type of space. Therefore, you should base your own initial investment estimates on the prevailing real estate costs in the market in which you are considering locating your *Built Custom Burgers* restaurant. Our estimates assume monthly rent ranging from a low of \$3.00/sq. ft. to a high of \$8.00/sq. ft. Our low estimate assumes that you will pay a lease security deposit equal to one

month's rent, and our high estimate assumes that you will pay a lease security deposit equal to 2 month's rent. Rent includes common area maintenance charges and an allowance for an advertising fee, which some shopping centers require once the center reaches a certain occupancy level. Not shown in this category are utility costs during the first three months, which we include under the utility deposits category. Depending on vacancy rates, prevailing economic conditions and competition, landlords may offer free rent, tenant improvement allowances and other incentives that we do not reflect in these charts.

NOTE 4. Professional Design Fees (Architect, Engineer, Kitchen Designer, Millwork and Interior Design). As we disclose in **Item 8**, once you sign the lease for your *Built Custom Burgers* restaurant, you must retain certain professionals with whom you will enter into an engagement agreement directly, including: a) our designated architectural firm, or another approved architect, at our discretion, to prepare your construction documents; b) our designated kitchen design and installation specialist, or a kitchen design and installation specialist approved by us, c) our designated kitchen equipment supplier and installer, or a kitchen equipment supplier and installer approved by us, and d) our designated millwork company or a millwork company approved by us to provide a design services proposal as well as a proposal for millwork and interior finish elements fabrication and installation.

The low estimate assumes that you have the requisite expertise to handle bidding and construction administration on your own. The high estimate assumes that you retain the services of a third party to handle bidding and construction administration. We can recommend service providers who can provide these services, but we do not require you to retain a specific firm. You must obtain our prior approval before hiring a construction manager who is not a firm that we currently recommend.

The Site Review Report Fee is applicable if a site review is requested by Franchisee. The cost of the report may increase if a site visit is required.

NOTE 5. Construction Costs and Leasehold Improvements. Construction costs and leasehold improvements include costs to conform the approved location to our comprehensive specifications for lighting, flooring, mechanical systems, electrical systems, plumbing, carpentry, wall coverings, ceiling treatments, exhaust/ventilation systems, restaurant dining, cooking and storage areas, and other leasehold improvements to prepare the location for opening as a *Built Custom Burgers* restaurant. This line item does not include the professional design fees to retain the services of our designated suppliers, approved lighting vendor or our approved millwork company, which we show in a separate line item.

The Landlord may provide some leasehold improvements, but if not, they will be at your expense. The total amount of leasehold improvements for your *Built Custom Burgers* restaurant will vary greatly, depending on the type of premises for your restaurant, condition of the premises, and what improvements you require. To avoid excessive construction costs, it is strongly recommended that you choose contractors carefully by obtaining several competitive bids before construction begins. These estimates are based on constructing a 1,500 square foot vanilla shell location, electrical requirements and HVAC per site standards of the brand. This amount is based upon a national average for labor costs and does not include extensive renovations. Construction costs also vary considerably depending on fair market values in your area; size, condition, and location of the premises; labor costs (union versus non-union); and equipment requirements. The typical *Built Custom Burgers* restaurant is 1,500 square feet. There is a wide range of probable locations that a *Built Custom Burgers* restaurant could be in, and therefore, a wide range for the approximate size of the property and building. Typical locations for a restaurant are strip shopping

establishment or operation of your *Built Custom Burgers* restaurant from us or from any of our designees.

The Franchise Agreement requires that all food products, ingredients, equipment, computer hardware and software, furniture, fixtures, décor, signs, computer equipment, supplies and other products, services and materials which you will use in the operation of your restaurant meet our standards and be purchased only from approved distributors and suppliers. In addition to requiring purchases from approved distributors or suppliers, we may, in our sole discretion, require that you purchase certain products or services through designated purchasing channels, programs, platforms, or contractual arrangements that we specify. You may use any operational service providers, such as exterminators, refrigeration services companies, refuse removal companies, and similar service providers that you desire. If we organize a rollout for a new approved product or a new supplier of an approved product, you will be required to purchase such approved product(s) from our approved distributors of the approved supplier within sixty (60) days of notification from us. We are not an approved supplier of any products or services. *Built Franchise Systems* is not a supplier of any products or services. Neptune Equipment, an affiliate of MTY USA, is currently one of the approved suppliers of certain equipment, menu boards, furniture, wall graphics, computer hardware and smallwares. Kahala Management, an affiliate of MTY USA, is currently the only approved service provider of phone support maintenance for the software and hardware of the POS system ("POS Help Desk Phone Support Maintenance"). You are required to purchase the POS Help Desk Phone Support Maintenance from Kahala Management. Kahala Management is also an approved service provider of real estate services. For a fee, Kahala Management will review your entire lease and exhibits and provide to you or your attorney its review of the entire lease and suggested changes to the lease. Kahala Management may, in its sole discretion, also assist you in locating a potential site for a franchisee upon request from a franchisee. You may, but are not required, to use Kahala Management for real estate services. There are other approved suppliers who are not affiliated with us for each of the items you will purchase to operate your *Built Custom Burgers* restaurant. We currently have other non-affiliated approved suppliers of all equipment, smallwares, furniture, POS Systems, beverage equipment, sound systems and certain ingredients and other logo items utilized in your *Built Custom Burgers* restaurant. None of our officers own an interest in any of the approved suppliers not affiliated with us. To become approved, a supplier must demonstrate, to our reasonable satisfaction, it can meet all of our standards and has adequate capacity to supply franchisee's quantity and delivery needs. We will provide you with a list of approved distributors of the approved suppliers for your market area during the pre-opening and/or construction phase for your Franchised Business. You can expect that the items you will purchase in accordance with our specifications will represent over 90% of the total purchases you will make to begin operations and over 80% of your annual operating expense for raw materials, products and supplies.

*Built Custom Burgers* is the only approved supplier for services related to the preparation of the Site Review Report for your Restaurant. You must, at your own cost and expense, use our designated and approved architect, as detailed in the Confidential Manual and no other architect may be used by you for the design of your restaurant. You must also, at your own cost and expense, retain a licensed architect of record to prepare the permitted construction set of drawings.

We may require you to purchase approved television, computer or other types of electronic monitors and displays, and to subscribe to cable, satellite and/or other media and content providers approved or designated by us to enable you to broadcast during operating hours, specific programming and content (e.g., DirecTV to broadcast designated sports networks). We

systems, and a variety of ongoing programs, including education, marketing, advertising, and franchisee meetings, seminars, conventions, conferences, and events. These vendor allowances are usually based on an amount per unit, per case, per gallon, or per pound of product (i.e., properly specified and approved meat, dairy products, paper products, smallwares, beverages and apparel) purchased. We may use vendor allowance funds received from our suppliers to benefit the *Built Custom Burgers* brand in our sole and absolute discretion.

For the year ending November 30, 2025<sup>4</sup>, MTY USA and its subsidiaries, as of such date, derived revenues from the sales of products, services, and vendor allowances in the amount of \$47,054,607~~51,714,322~~, which was approximately 8.57.8% of MTY USA's total consolidated recognized revenue in the amount of \$604,239,000~~597,538,000~~.

Various suppliers and vendors of MTY USA and its subsidiaries contribute marketing and other revenues to MTY USA and/or its subsidiaries based upon system-wide purchases from those suppliers and vendors. During our last fiscal year, MTY USA and its subsidiaries on a consolidated basis earned a total of \$29,352,205~~30,372,764~~ of the \$47,054,607~~51,714,322~~ from such vendors. Additional other revenues (for example, revenue from miscellaneous fees and expenses from franchisees) in the amount of \$5,917,821~~5,680,438~~ were also received by MTY USA and its subsidiaries during the last fiscal year.

A subsidiary of MTY USA that earned revenue from purchases of equipment, furniture, menu boards, interior and exterior signage, wall décor and smallwares made by us, our franchisees, and licensees is Neptune Equipment. Neptune Equipment provides the following services: purchases your equipment from various approved manufacturers; provides logistics services by arranging for bundled delivery to you; and assists with warranty support of the equipment purchased. Neptune Equipment charges a markup on the equipment and a handling fee for its services. During our last fiscal year, Neptune Equipment earned a total of \$1,849,497~~1,670,243~~ of the \$47,054,607~~51,714,322~~ from franchisee purchases.

During our last fiscal year, MTY USA on a consolidated basis with its subsidiaries, earned revenue from POS help desk support maintenance services and the sale of POS equipment, in a total amount of \$1,813,085~~1,845,877~~ of the \$47,054,607~~51,714,322~~.

The processing fees received by Kahala Management do not currently cover the costs of the gift card program.

Our Leasing Affiliates do not derive revenue as a result of their leasing activities.

We have not arranged any purchasing or distribution cooperatives among our franchisees.

Under our supply arrangement, the supplier that we designate of Coca Cola brand beverages will furnish you with fountain beverage dispensing equipment and provide certain repair and maintenance services without charge. We reserve the right to amend, modify or terminate the Coca Cola Agreement as we deem appropriate.

We retain for our use the revenue we receive from suppliers based on our franchisees' purchases of products and services.

You must, at your own cost and expense, use our designated and approved third party design architect, as detailed in the Confidential Manual, to prepare the initial design drawings for your Franchised Business. Except for the design architect designated and approved by us, no other architect may be used by you for the design of your restaurant. You must also, at your own cost and expense, retain a licensed architect of record to prepare the permitted construction set of drawings.

You must purchase an interior and exterior sign package and menu panels in accordance with our specifications indicated in the Confidential Manual and related documents provided to all franchisees. You may be required, or opt to, purchase certain digital menu boards for your restaurant from our approved supplier. The cost to purchase and install digital menu boards may vary depending on various factors including the store format and offerings, the number of menu boards or screens purchased, restaurant location, and the hardware and installation of the boards or screens. We estimate the costs associated with the initial purchase of the digital menu boards to range between \$7,000 to \$20,000. Currently the digital menu board software fee is estimated at \$100 per display per year, payable to the approved supplier/vendor and subject to their applicable increases. In addition, you must have your *Built Custom Burgers* restaurant be consistent in color, design and style with the standards and specifications adopted and approved by us, and as we may modify those standards periodically. You must maintain the appearance and atmosphere of your *Built Custom Burgers* restaurant, and the equipment and premises used in connection with your *Built Custom Burgers* restaurant, in accordance with the standards we may adopt from time to time. Any variations in color, design, style, appearance or atmosphere must be approved in writing by us. Our current standards and specifications are included in our Confidential Manual.

You are required to acquire, from an approved supplier, and exclusively use an approved cash register/point of sale computer system and software during the operation of your *Built Custom Burgers* restaurant. The components and specifications of this system are specifically identified in the Confidential Manual, including approved vendors for such system. You shall also be required to own a personal computer or similar device that allows you to send and receive e-mails with us.

You are required to accept all approved debit and credit cards, along with *Built Custom Burger's*, MTY or its affiliate's Stored Value Gift Cards, Loyalty Cards, Frequency Cards, and any other similar *Built Franchise Systems*, MTY or its affiliate's sponsored electronic card and/or payment program (collectively, the "Gift/Loyalty Card") from consumers at your *Built Custom Burgers* restaurant. Prior to the opening of your restaurant, you will be required to acquire an approved debit, credit and Gift/Loyalty card processing system to use during the operation of your *Built Custom Burgers* restaurant. The components and specifications of this system are specifically identified in the Confidential Manual. Additionally, you must utilize our approved third party payment card processor, as identified in the Confidential Manual, for processing all such debit, credit, rewards, and Gift/Loyalty card transactions. The Payment Processor will charge fees for credit card processing based on the applicable card brand and issuing bank. Network and interchange fees vary depending on card brand, card type, and method of acceptance. For certain required credit card brands, fees are assessed on an interchange-plus basis at the then-current interchange and network rates, plus a processor markup of \$0.0175 per transaction, and are subject to future changes. Other required credit card brands may be assessed using a tiered discount rate structure, under which the applicable percentage rate varies based on card type and tier classification. All rates and fees are subject to change by the applicable network and other applicable third parties. In addition, the Payment Processor may assess additional charges for voice authorizations, chargebacks, and debit PIN transactions, as applicable.

You must utilize our approved mobile application ("App") and online food ordering service (including any third-party delivery order integration) and may not use any other store-specific App or online ordering service. Olo is a Franchisor-approved online ordering vendor, as of this Disclosure Document's issuance date. You may also utilize third-party delivery services of your choice, unless we require you to use a specific third-party(ies) and provided that if required and/or if you choose to participate in such third-party delivery services, you may be required to utilize a point-of-sale integration directed by us.

You must complete a food safety manager training program at your cost. We will accept your local county or state required program or any other nationally recognized food safety program. You must provide us with a copy of your certificate prior to attending our Initial Training Program.

We may, from time to time, provide referral incentives to franchisees, employees and others for qualified referrals of prospective franchisees. We may, from time to time, pay membership fees to public, quasi-public and private service providers who refer potential franchisees from identified groups (e.g. veterans or military personnel planning to leave the service).

We may vary the terms of our franchises in connection with testing new marketing, branding, research and development of new menu offerings, and/or operational programs. These tests are generally conducted with experienced, existing franchisees and may include incentives and other rights which are not available to all franchisees. We reserve the right to sell some of the products associated with the *Built Custom Burgers* brand to different retail outlets such as grocery chains or membership-based retailers.

You may not maintain a World Wide Web site, an App (Application), social media site, or otherwise maintain a presence or advertise on the Internet or any other public computer network in connection with the Franchised Business without our prior written approval.

Although not bound to do so, MTY USA, or its affiliate(s) may conduct, from time to time, additional research and development with regard to its specifications and standards. The criteria for evaluating any changes in these specifications will be whether such changes in the specifications will improve quality, be more efficient and have greater customer appeal, thus enhancing the *Built Custom Burgers* brand name and image.

You must obtain all insurance we require and obtain it from an insurer having an A.M. Best's financial strength rating of "A-VIII" or better. Your insurance must: (i) insure the particular Franchisee listed on your Franchise Agreement; (ii) name us and our parents, subsidiaries, affiliates, directors, officers and employees as additional insured; (iii) contain a waiver by the insurance carrier of all subrogation rights against us and our affiliates for casualty losses; (iv) provide that we will receive by an endorsement 30 days' prior written notice of cancellation; and (v) provide that failure by franchisee to comply with any term, condition or provision of the contract, or other conduct by franchisee, will NOT void or otherwise affect the coverage afforded us. Before you may open your *Built Custom Burgers* restaurant, at the time you sign your lease, annually at least 10 days prior to renewal of your insurance coverage, and at any other time upon our request, you must provide a copy of your certificate of insurance to us which meets our requirements.

Our minimum insurance coverage requirements (subject to change, including to increase)

| <b>Obligation</b>                                                                        | <b>Article or Section in Franchise Agreement</b>                                                                                                | <b>Section in Sublease</b> | <b>Disclosure Document Item</b> |
|------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|---------------------------------|
| k. Territorial development and sales quotas                                              | No obligation imposed in Franchise Agreement;                                                                                                   | Not Applicable             | 11                              |
| l. Ongoing product/service purchases                                                     | 3.2, 9.2 and 9.3                                                                                                                                | Not Applicable             | 8                               |
| m. Maintenance, appearance and remodeling requirements                                   | 1.4, 2.3, 12.3 and 13                                                                                                                           | 8                          | 7 and 11                        |
| n. Insurance                                                                             | 9.5                                                                                                                                             | 12                         | 7                               |
| o. Advertising                                                                           | 5.3, 5.4 and 10                                                                                                                                 | Not Applicable             | 6, 7 and 11                     |
| p. Indemnification                                                                       | 8.2, 8.3, 14.7 and 16.17                                                                                                                        | 2.3, 7, 11 and 16          | 13 and 14                       |
| q. Owner's participation/management/staffing                                             | 4.1, 4.2, 4.3, 9.1 and 9.6                                                                                                                      | Not Applicable             | 11 and 15                       |
| r. Records and reports                                                                   | 5.2, 5.6 and 11.1                                                                                                                               | 3                          | 6 and 11                        |
| s. Inspections and audits                                                                | 4.3, 4.4, 5.18, 9.7 and 11.2                                                                                                                    | 3.3 and 13                 | 6 and 11                        |
| t. Transfer                                                                              | 12                                                                                                                                              | 9                          | 6, 16 and 17                    |
| u. Renewal                                                                               | 13                                                                                                                                              | 2.2                        | 6, 16 and 17                    |
| v. Post-termination obligations                                                          | 14.5                                                                                                                                            | Not Applicable             | 17                              |
| w. Non-competition covenants                                                             | 14.6                                                                                                                                            | Not Applicable             | 15 and 17                       |
| x. Dispute resolution                                                                    | 16.3                                                                                                                                            | Not Applicable             | 17                              |
| y. Other                                                                                 |                                                                                                                                                 |                            |                                 |
| Personal Acceptance; Personal and Spousal Guarantees; Non-Disclosure and Non-Competition | 9.8; Personal Acceptance of Sections 7.1, 7.2, 14.6 and 14.8; Guaranty of Franchise Agreement; and Non-Disclosure and Non-Competition Agreement | Guaranty of Sublease       | 10, 15                          |

Note 1: Not applicable for renewal Franchise Agreements.

## **ITEM 10. FINANCING**

~~We do not offer any direct or indirect financing or financing arrangement, nor will we guaranty your obligations under any note or other obligation, except potentially for the lease for your site or if you purchase a restaurant corporate owned "as-is" by one of our affiliates, and only in our sole and absolute discretion to franchisees. However, in limited circumstances and in our~~

sole discretion, we or one of our affiliates may provide financing in connection with your purchase of a corporate-owned restaurant sold on an “as-is” basis, or in other limited, one-off circumstances. In addition, we may, in our sole discretion, provide a lease guarantee for an approved restaurant site.

Other than as described above, we do not guarantee franchisee obligations under any note or other obligation, except as specifically described below.

If you are an individual and married, your spouse must execute and deliver to us a Guaranty of Franchise Agreement (See Exhibit F-1: Guaranty of Franchise Agreement) and a Non-Disclosure and Non-Competition Agreement (See Exhibit F-2: Non-Disclosure and Non-Competition Agreement) at the same time that you sign the Franchise Agreement unless your spouse is also signing the agreement as an individual. If you are a corporation, limited liability company, or other business entity, each of your shareholders, members, or other owners (and their respective spouses, if married) must execute and deliver to us a Guaranty of Franchise Agreement, and their respective spouses must execute and deliver to us a Non-Disclosure and Non-Competition Agreement, at the same time that you sign this Agreement. In the event any person who has not previously signed a Guaranty of Franchise Agreement or a Non-Disclosure and Non-Competition Agreement becomes your spouse or the holder of any class of your stock or ownership interests or a spouse of such holder, at any time after the execution of such agreement, you must cause such person(s) to immediately execute and deliver a Guaranty of Franchise Agreement and a Non-Disclosure and Non-Competition Agreement to us as appropriate.

Lease guarantee fees, if applicable, are disclosed in Item 6 (Other Fees) of this Disclosure Document.

~~If, in order to obtain the lease agreement for the site of your *Built Custom Burger* restaurant, the landlord requires you to obtain a third party lease guarantee, and we or one of our affiliates agrees to serve as such guarantor (with such determination to be made in our sole and absolute discretion), you will pay to us a lease guarantee fee in the amount of 10% of the total amount of the rental obligations being guaranteed under the lease during its term up to a maximum payment of \$10,000. If the franchisee is an individual, the individual franchisee (and his/her spouse, if married) must personally guarantee the debt. If the franchisee is a corporation, limited liability company, partnership, or other entity, each of the principals of the entity (and each of their respective spouses, if married) must personally guarantee the debt. Once paid, the lease guarantee fee is non-refundable under all circumstances. We do not offer financing for the lease guarantee fee as it is payable in full upon the execution of the guarantee. Neither we, nor any of our affiliates, are required to serve as a guarantor of your lease for the site of your restaurant. The decision of whether to serve as a guarantor of your lease shall be made at our sole and absolute discretion.~~

If you purchase a corporate restaurant “as-is” that is owned and operated by one of our affiliates, we may finance up to 100% of the purchase price, at our sole discretion. When you purchase a corporate-owned restaurant from one of our affiliates, you will enter into an “Asset Purchase Agreement” (see Exhibit D: Asset Purchase Agreement (For Sale of a Corporate Store to a Franchisee with Promissory Note and Security Agreement and Guaranty)). If you finance any portion of the purchase price of the corporate-owned restaurant through MTY USA. or one of its affiliates, you will also enter into a “Promissory Note and Security Agreement” and a Guaranty, which are exhibits to the Asset Purchase Agreement (and also the form of agreement we would

use in any other limited, one-off circumstance in which we or our affiliates, in our sole discretion, provide financing). The purchase price may include the initial franchise fee, any transferrable furniture, fixtures, and equipment, the leasehold and/or any transferable leasehold improvements that are located in the restaurant at the time of purchase, along with any inventory in the restaurant at the time of purchase. The lender providing the financing is MTY Franchising USA, Inc. or one of our affiliates, whichever entity owns the restaurant. The annual rate of interest charged will be between 0% and 12% and will depend on the creditworthiness of the franchisee, the amount being financed, and the dollar amount being paid up-front by the franchisee. There are no finance charges associated with the Promissory Note and Security Agreement. The amount being financed will be required to be re-paid in equal monthly installments and the period of repayment will be between 12 months and 60 months, depending on the amount being financed. The security interest required by us is a first position lien on all equipment. If the franchisee is an individual, the individual franchisee (and his/her spouse, if married) must personally guarantee the debt. If the franchisee is a corporation, limited liability company, partnership, or other entity, each of the principals of the entity (and their respective spouses, if married) must personally guarantee the debt. The Promissory Note and Security Agreement may be pre-paid in full or in part at any time and from time to time without penalty. The franchisee's potential liabilities upon default include: (i) an accelerated obligation to pay the entire amount due, including but not limited to all accrued and unpaid interest, if the default is not cured within seven calendar days; and the interest rate will be increased to an annual rate of 18%; (ii) obligation to pay costs and attorneys' fees incurred in collecting the debt; (iii) termination of the franchise; and (iv) liabilities from cross defaults resulting from non-payment or from the loss of business property on franchisee's other restaurants named in the Promissory Note and Security Agreement and granting either MTY Franchising USA, Inc., or one of its affiliates the right to take back the restaurant(s). Additional waiver provisions are set forth in the Promissory Note and Security Agreement attached as Exhibit D to this Disclosure Document. –The Promissory Note and Security Agreement requires franchisees to waive the following legal rights: demand, notice, diligence, protest, presentment for payment, and notice of extension, dishonor, protest, demand and nonpayment of the promissory note; any release or discharge by reason of any release or substitution of, or other change in, any security given for the indebtedness or the obligation of any person or entity who may become directly or indirectly liable for the note or any extension or other modification of the note; and rights to contest or appeal our exercise of the take back rights and not receiving compensation for the restaurant after the take back rights have been exercised.

We require a first lien position in all equipment as a security interest to be given by the franchisee. We do not intend to sell, assign or discount to a third party any financing arrangement. We do not arrange financing from other sources; therefore, we do not receive direct or indirect payments from placing financing.

The lease for a corporate restaurant is entered into by one of our affiliates. When you purchase the corporate restaurant, you will enter into a Sublease with our affiliate using our standard form of Sublease where you pay all monies owing under the Master Lease directly to the property owner, or our standard form of Sublease in which you pay all monies owing under the Master Lease to our affiliate and the affiliate will pay the property owner, which are exhibits to the Asset Purchase Agreement. The Sublease will contain substantially the same terms as the Master Lease. The term of the Sublease will be for the entire term of the Master Lease, less one day. If you are an individual, you (and your spouse, if married) must sign the Guaranty of Sublease (see Exhibit Q: Sublease and Guaranty of Sublease). If you are a corporation, limited liability company, partnership or other business entity, each of your shareholders, members, partners or other owners (and their respective spouses, if married) must sign the Guaranty of Sublease.

If we determine that you do not have the financial capacity to perform your obligations with respect to the site or the Master Lease, we may deny approval of the site and/or Master Lease. That disapproval will be deemed to be reasonable. In that event, we or our affiliates or franchisees may operate a *Built Custom Burgers* restaurant at that site.

We or our affiliates may, in our sole discretion, lease the site approved by us for your *Built Custom Burgers* restaurant and sublease the site to you. In addition, if and when you sign the Sublease, you must pay to us an amount equal to two months base rent under the Master Lease, plus a security deposit in an amount equal to the security deposit required under the Master Lease. (We reserve the right, however, to require a greater security deposit, based upon your creditworthiness.)

Please note, if you intend to lease the site of your restaurant, the lease must include certain required provisions (See Exhibit L: Required Lease Terms; Exhibit E-1: Franchise Agreement (New) – Section 2.2; Exhibit E-2: Franchise Agreement (Renewal) – Section 2.2; Exhibit E-3: Franchise Agreement (Transfer) – Section 2.2 (all the preceding three franchise agreements collectively known as “Exhibit E: Franchise Agreement”)).

#### **ITEM 11.**

#### **FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING**

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

Currently, there are no *Built Custom Burgers* Area Representatives. However, if the area in which your *Built Custom Burgers* Restaurant is located is ever subject to an area representative agreement, the Area Representative in that area may be responsible for providing to you some or all of the services required to be provided by us, other than new owner training. However, Area Representatives are not authorized to make promises or agreements on our behalf or to agree to modifications to your Franchise Agreement or other agreements relating to your Franchised Business.

Pre- Opening Assistance:

Before you open your *Built Custom Burgers* restaurant, we will provide you with the following assistance:

##### Site Selection

1. You will be required to lease or purchase the premises for your *Built Custom Burgers* restaurant from a third party. Generally, we do not own or lease the premises and Sublease it to you. Most restaurants are developed by franchisees who find their own locations and negotiate their own real estate interests. We may, upon your written request, assist you in selecting a site for your *Built Custom Burgers* restaurant. You must select, and we must approve, an acceptable location ~~that you open~~ within nine (9) months after the effective date of the Franchise Agreement. The lease or purchase agreement will be subject to our prior approval, and you must provide us with a copy of the lease or purchase agreement at least 30 days prior to execution. We will notify

you if we do not approve the site within 30 days of receiving your site selection information. We will not unreasonably withhold our approval of the location. The location must be within a geographic area identified in Section 1.1 of the Franchise Agreement. The factors that we will consider in approving your proposed location include, among other things: occupancy costs, proximity to major retail activity and other *Built Custom Burgers* restaurants, sign visibility, traffic volume and speeds, parking availability, neighborhood economic profile, population density, accessibility, competition and other tenants in the shopping center, mall, or applicable retail structure. *Built Custom Burgers* may visit the proposed site if requested, and prepare a Site Review Report for you which provides certain site information relevant to assessing whether the proposed site is suitable for development of a *Built Custom Burgers*® Restaurant. The Site Review Report is not a warranty, representation or guaranty by *Built Custom Burgers* that a *Built Custom Burgers*® Restaurant opened at that site will be a financial success or that the site complies with any or all applicable laws, codes, ordinances or regulations (including without limitation, the Americans with Disabilities Act). If applicable, you may not purchase or lease any proposed site until *Built Custom Burgers* has issued a “no-objection” letter, signifying the site simply meets brand standards. You will pay *Built Custom Burgers* the then-current fee (currently \$1,000 to \$5,000, subject to increase if a site visit is required) for the Site Review Report (see Item 5). If you cannot secure a location acceptable to us ~~and open it~~ within nine (9) months after the effective date of the Franchise Agreement, we may terminate your Franchise Agreement after giving you written notice (See Exhibit E-1: Franchise Agreement (New)—Section 2.1). The decision to establish and operate your Built Custom Burger restaurant at the location will be made solely by you, without any reliance upon any information provided (if any), recommendation made (if any) or approval given (if any) by us, any Area Representative or any of our or their respective shareholders, directors, officers, employees, representatives, agents or affiliates. You must purchase or lease your business location from independent third parties. If you intend to lease your business location, the lease must include certain required provisions (See Exhibit L: Required Lease Terms; Exhibit E: Franchise Agreement—Section 2.2). We will, within 60 days after we receive a proposed Master Lease (and additional materials required by us), review the Master Lease to make sure it meets our minimum site requirements, in our sole discretion if deemed applicable. Upon submission of a proposed Master Lease, you must provide us with any additional documentation and information that we may require regarding the proposed site, the proposed lease, your financial condition and your Principals’ financial condition.

2. If we determine that you do not have the financial capacity to perform your obligations with respect to the location or the Master Lease, we may deny approval of the location and/or Master Lease. Our disapproval will be deemed to be reasonable. In that event, we or our affiliates or franchisees may operate a *Built Custom Burgers* restaurant at that site.

## Construction and Furnishings

1. We will provide you with a copy of the design drawings, which is the detailed plans and specifications including landscaping and parking space, if applicable, for your Franchised Business upon our approval of the plans. You must hire and use, at your sole cost and expense, our designated and approved third party architect (See Exhibit E: Franchise Agreement—Section 2.3). You are solely responsible for conforming the premises to all codes and ordinances, including the Americans with Disabilities Act (the “ADA”), and obtaining all required permits. You are solely responsible for constructing or remodeling and decorating the location to our system standards and subject to our approval. We do not provide assistance with conforming the premises to codes and ordinances, including the ADA, obtaining permits, or constructing, remodeling or decorating your restaurant. You must provide us with one copy of the plans for

co-branded with another affiliated brand); Exhibit I: Amendment to Franchise Agreement (for co-branded non-traditional locations)).

2. The classroom portion of the Training Program will be held either online, from KTEC, which is located at our corporate offices in Scottsdale, Arizona, or at other location(s) as designate in our sole discretion and the in-store portion of the Training Program will be held at the franchisee's restaurant location or at such other location(s) as we may designate in our sole discretion. We may also have on-line training web portal training. You will need to arrange for transportation (such as flights and car rental), food, and lodging for you and your designated attendee. The costs you incur will depend on factors such as the distance you must travel, the type of accommodations you choose and the time of year you attend training. The estimated cost for travel and living expenses for two persons while training, not including salaries, if any, ranges from \$2,500 to \$5,000 (See Exhibit E: Franchise Agreement—Sections 4.1 and 9.6).

3. You must complete the Training Program no more than three months and no less than one day prior to the opening of your *Built Custom Burgers* restaurant. The New Owner Training will be conducted once a month. The In Store Training portions of the Training Program is scheduled as needed and determined by the Franchisor. We do not currently require you to attend additional training courses or refresher courses. However, if you would like additional training after completing the Training Program, we will provide additional training to you at a cost of \$300 per person per day. Notwithstanding the foregoing, Franchisor has the right to require Franchisee and/or its managers(s) to attend additional in-store training in the event Franchisee is not operating the Franchised Business pursuant to Franchisor's Systems Standards.

4. For your first location we will provide three of our representatives to come to your restaurant during your opening weeks for up to twelve days at our expense to work with you and your manager on your grand opening, and on operating and marketing your restaurant. For your second location we will provide two or three of our representatives to come to your restaurant during your opening weeks for up to ten days at our expense to work with you and your manager on your grand opening, and on operating and marketing your restaurant. For your third location we will provide two of our representatives to come to your restaurant during your opening week for up to seven days at our expense to work with you and your manager on your grand opening, and on operating and marketing your restaurant. There is no fee for this opening assistance. However, you will pay *Built Custom Burgers* for the Travel Expenses and the prorated Salaries and Benefits for the Opening Team within 30 days after receipt of an invoice from *Built Custom Burgers*. Note: 50% of this expense is billed up front before the opening date. In addition to the Training Program, you must ensure that all of your employees are trained in *Built Custom Burgers* restaurant procedures. You are solely responsible for hiring and training your employees. You must also ensure that the manager(s) and all employees whose duties include customer service are able to speak and read English and any other language that may be required to adequately meet the public needs in your restaurant. We believe training is important to the success of the *Built Custom Burgers* System, and from time to time, we may offer informal training sessions to franchisees. We believe it is in your best interest to attend any such training sessions.

5. We may, in the future, hold refresher or additional training programs, conferences and seminars. Your attendance at these programs is mandatory. To help us defray the cost of sponsoring these programs, there may be a nominal registration fee, and you will also be required to pay the cost of transportation, food, lodging and other personal expenses of your attendance and those of your personnel at any such program. These programs will be held at locations within

## Advertising

1. We (or, at our election, a third party that may be an affiliate of ours) will establish and administer the Fund that will include your Advertising Fees and those of other franchise owners in the System, in accordance with the Franchise Agreement. The Advertising Fee, which is a percentage of your weekly Gross Sales (See Exhibit E: Franchise Agreement – Section 5.3), shall be due and payable with the Royalty Fee (See Exhibit E: Franchise Agreement – Section 5.2). Except in limited circumstances as described below, all *Built Custom Burgers* franchisees must contribute to the Fund at the same rate, which is currently one percent (1%) of your weekly Gross Sales to the National Fund. In limited cases in our sole discretion (for example, certain international restaurants or non-traditional restaurants such as airport or university locations that require different advertising support), some stores may not be obligated to contribute to the Fund. If an affiliate of ours administers the Fund or places advertising in connection with the System, such affiliate may be paid a fee that will not exceed the fee that would be payable to unrelated third parties for comparable services. For each of our company-owned or affiliate-owned restaurants, it's our policy that such restaurants make contributions to the Fund at a rate equal to the lowest rate a franchisee is then-required to contribute. Unless required by applicable law, we will have no obligation to create a trust account, escrow account or other special account for the Fund, and the monies comprising the Fund may be placed in our general account(s) if we desire. We may also reserve portions of the Fund for use in a subsequent year. The Fund is not audited, and the financial statements for the Fund and accounting of the Fund are not available to franchisees.

2. The Fund will be used for marketing, advertising, production and media expenses to promote the *Built Custom Burgers* name, System, products and services. The Fund may be used to pay any and all costs of maintaining, administering, directing and preparing advertising, including the cost of preparing and conducting television, radio, magazine, digital, and newspaper advertising campaigns and other public relations activities, employing advertising agencies to assist in such campaigns or other activities, and providing promotional brochures and other marketing materials to franchise owners. We are entitled to receive the following from the Fund: reimbursement of our expenses, overhead, and employee salaries for services, materials, supplies, facilities, equipment or capital provided to the Fund, and rent for office space provided to the Fund. Advertising funds not spent in the fiscal year in which they accrue are rolled over to the next fiscal year. We have no fiduciary responsibility to you on our management of the Fund, and no obligation to you to spend the Fund in your market area and/or in your Cooperative area, if applicable.

3. We, or our designee, will direct all advertising programs to be undertaken through the use of the Fund. We will have sole discretion over all creative concepts, materials and media used in such programs and the placement and allocation of such programs. Advertisements generally will be in print, digital, and broadcast media, initially with local coverage. We are not required to use any specific amounts from the Fund in your market. However, we in our sole discretion may use some amounts contributed by you to any approved Regional Fund, if any, in the same geographic area in which your restaurant is located. We may use an outside advertising agency to create and place advertising or we may use our in-house marketing department. The Fund will be used to create new marketing material and promote the products and services offered by *Built Custom Burgers* restaurants. In the calendar year ending November 30, 2024-2025, we did not collect any Advertising Fees.

~~Fund expenditures during our most recent fiscal year ending November 30, 2025, fell~~

into the following categories:

|                 |       |
|-----------------|-------|
| Production      | —0%   |
| Media Placement | —0%   |
| Administrative  | —0%   |
| Other           | —100% |
| TOTAL           | —100% |

~~The “other” expenses included public relations, research, concept development and communications. None of the Fund was used for the solicitation of franchises.~~

4. A the telephone directory advertisement must be approved by us in advance (See Exhibit E: Franchise Agreement—Section 10.2). If your franchise is located outside of an enclosed shopping mall, health club, or other enclosed structure, you must also spend \$5,000 on advertising and promotion within the first six months following the opening of your restaurant (See Exhibit E: Franchise Agreement—Section 5.3).

5. In addition to contributions to the Fund and the telephone directory advertisements, if applicable, described above, we strongly recommend that you spend not less than 2% of your monthly Gross Sales on local advertising. If your franchise is a traditional restaurant, we strongly recommend that you spend a minimum of \$3,000 on a grand opening advertising program, and an additional minimum of \$2,000 on advertising and promotion within the first six months following the grand opening of your restaurant. If your franchise is a non-traditional restaurant, we strongly recommend that you spend a minimum of \$1,500 on a grand opening advertising program, and an additional minimum of \$500 on advertising and promotion within the first six months following the grand opening of your restaurant (See Exhibit E: Franchise Agreement—Sections 5.3 and 10.2).

6. All advertising by you in any medium must be conducted in a professional manner, must conform to the standards and requirements in our Confidential Manual, and must display our Proprietary Marks only in those forms approved by us. We may make available to you, from time to time, approved advertising, promotional plans and materials for purchase (See Exhibit E: Franchise Agreement—Sections 3.2 and 10.2).

7. You may not maintain a web site, software application, an App (application), social media account (including, but not limited to, an account, group or page on Facebook®, Flickr®, Foursquare®, Google+®, Instagram®, LinkedIn®, Pinterest®, Snapchat®, Tumblr®, X/Twitter®, YouTube®, Vine®, VKontakte or Weibo®), or otherwise maintain a presence or advertise on the Internet or any other public computer network in connection with the Franchised Business without our prior written approval (See Exhibit E: Franchise Agreement – Section 3.4).

8. We will not prevent the formation of franchisee Cooperatives. Currently, there are no regional or national marketing Cooperatives for *Built Custom Burgers* franchisees. We encourage our franchisees to form and operate Cooperatives. If a Cooperative is formed for your region, you must financially contribute to the Cooperative as required by us. Failure to do so will be deemed a breach of the Franchise Agreement and you may also, in Franchisor’s sole discretion, or lose your right to vote as to Cooperative matters. The membership of the Cooperative would be defined by us according to your market area. We reserve the right at any time, in our sole discretion, to form, change, dissolve, or merge Cooperatives.

\$55 per month and subject to increase. It is recommended that you also purchase the hardware support for all modules for the first year you operate your restaurant. The cost is approximately \$150 to \$1,300 per year depending on the equipment installed. This cost is subject to change by the supplier. If you are required to purchase digital menu boards, you may also be required to purchase hardware to manage the digital menu board, the cost is approximately \$5,500.

b. The approved POS System has in its specifications integrated “card swipe” systems that process debit card, credit card, or other non-cash payment systems including our stored value gift cards, loyalty cards, frequency cards, gift certificates, vouchers, and any other similar electronic card and/or payment programs (collectively, the “Gift/Loyalty Card”) sponsored by us or our affiliates. You must obtain credit card and gift card processing services from our approved vendors. The charges associated with setting up the gift card processing include a \$25.00 initial set up fee to the approved vendor processor, a \$5.00 monthly pooling fee, and the cost of the gift cards purchased from the vendor. The charges associated with credit card and gift card transactions are compiled per transaction and therefore will vary from restaurant to restaurant. We estimate that the costs associated with credit card transactions will be between 1% and 4% of your gross sales. Gift card transactions currently will cost you between 5% to 9% \$0.10 per of the gift card redemption transaction. The Payment Card Industry (“PCI”) requires all companies that process, store, or transmit credit card information to protect the cardholders’ information by complying with the PCI Data Security Standard (“PCI DSS”). Therefore, as a franchisee who accepts credit cards, you are required to be PCI compliant by following and adhering to PCI DSS, completing an annual questionnaire and quarterly network PCI scans and installing a network firewall appliance for logging, tracking, reporting, and security assessment. We may require a particular firewall (hardware and/or software). The PCI compliance is mandated by the Payment Card Industry. The cost for the quarterly network security scans, network firewall appliance and annual questionnaire ranges from \$150 to \$1,300 per year. You are also required to validate with Built Franchise Systems or its affiliate that your store is PCI compliant to show validation you must send Built Franchise Systems or its affiliate your Passing Certificate showing your store is PCI compliant and also verify that you have a PCI compliant firewall appliance installed at your location if you process credit cards via high speed internet connectivity.

c. You must purchase a computer and connect to the Internet so that you can report your gross sales online, so you can receive online orders (if applicable), so that we can communicate by email, so that you can use Internet and Extranet services, and so that you can receive other electronic information we send. You also must, at your cost, maintain membership in a designated third party network, and maintain an active email account. We may revise our computer specifications. If we do so, we may require you to upgrade or update your computer, including but not limited to your operating system. There is no contractual limitation on the frequency and cost of this obligation. You are responsible for backing up and otherwise protecting your data on your computer. You are also responsible for recording and restoring all software license keys. We may require you to upgrade the hardware and software as reasonably necessary to provide reports and information required by us. You may be required to participate in online ordering and delivery programs, which may, in Franchisor’s sole discretion, require you to pay for certain goods and/or services from Franchisor, Franchisor’s affiliate, and/or unaffiliated third-party providers. As of the date of this disclosure it is strongly recommended. For example, as of the Disclosure Document’s Issuance Date, franchisees are required to enter into an agreement with, and pay corresponding fees to, Olo as established by Olo for such goods and/or services. Applicable fees may include, as of the Disclosure Document’s Issuance Date, a monthly fee ranging from \$75 to \$150, a Transaction Fee ranging from \$0.11 to \$0.13 per transaction and a one-time store activation fee of \$250 for all new locations. This provider and/or its fees may change, in Franchisor’s sole discretion, upon advance notice to you. Additionally, third-party

delivery programs may charge varying fees, including commissions of 15% to 24%, order processing fees (for example, \$0.99 promo fees, or native delivery fees of \$5.49 to \$12 based on distance), and pickup fees of 5% to 7%. Program terms and fees vary by provider and may change or increase under the provider's then-current terms.

2. We require that you permit us to poll your sales information on a daily basis, and that you execute a Pre-Authorized Electronic Funds Transfer Form by and payable to Built Franchise Systems or to one of our affiliates (which is attached to this Disclosure Document as Exhibit P), permitting us to weekly debit your account for payment of weekly royalty and advertising fees and debit your account as necessary for product purchases from us or our affiliates. (See Exhibit E: Franchise Agreement – Sections 5.2, 5.3 and 5.4). We may require you to enter weekly inventory information, and if so, would require that you permit us have remote access to that information (See Exhibit E: Franchise Agreement – Section 4.6). We may require you to permit us access to your POS System, restaurant management software, and financial records (or similar tools thereto) to poll your information daily, or more frequently, by electronic or other remote means (See Exhibit E: Franchise Agreement – Section 5.2).

3. The POS System and personal computers contain sales and labor data that can be generated and stored in the systems and that allows for the generation of financial and payroll reports

## **ITEM 12. TERRITORY**

The franchise is granted only for the location specified in the Franchise Agreement or a location to be approved by us. The specific site of your *Built Custom Burgers* restaurant is subject to our approval. We will not unreasonably withhold our approval of the location.

You will not receive an exclusive territory. You may face competition from other franchisees, from restaurants that we own, or from other channels of distribution or competitive brands that we control. You will not receive an option, right of first refusal or other rights under the Franchise Agreement to acquire additional franchises. We (and/or our affiliates) may establish other franchised or company-owned *Built Custom Burgers* restaurants that may compete with your location, including across the street from your location or in the same venue as your location. We (and/or our affiliates) may co-brand *Built Custom Burgers* with one or more of our other quick service restaurants or allow approved *Built Custom Burgers* stores to sell additional approved menu items under a trademark license agreement we may have with other third-party restaurant concepts. We presently intend to develop *Built Custom Burgers* restaurants throughout the United States and internationally. Except as expressly limited in the Franchise Agreement, we (for ourselves, our affiliates and our designees) retain all rights with respect to *Built Custom Burgers* restaurants, the Service Marks, all confidential and proprietary information, all copyrighted materials and the sale of *Built Custom Burgers* products anywhere in the world, including, without limitation, the right to implement multi-area marketing programs that may allow us or others to solicit or sell to customers anywhere. We also reserve the right to issue mandatory policies to coordinate such multi-area marketing programs. One or more future *Built Custom Burgers* restaurants may have an adverse effect on the revenues and profitability of existing *Built Custom Burgers* restaurants, including your *Built Custom Burgers* restaurant.

In addition, we (and/or our affiliates) may market and/or test, directly or indirectly, *Built Custom Burgers* products or services through channels of distribution other than *Built Custom Burgers* restaurants operated by us, our affiliates and franchisees, including through the Internet,

catalog sales, telemarketing, grocery stores, movie theaters, limited access highway food facilities, mobile units, off-site sales accounts, electronic mail, converting other chains and other distribution opportunities, or vending machines and similar automated dispensing systems ("Other Channels") which generally are not available for us to franchise to you, and typically involve trademark licensing and/or the sale of our branded products. We may also distribute, sell and/or license other persons or entities to distribute and/or sell products through all Other Channels. Where tests prove to be successful, we may expand our sale of products in similar businesses on a regional, national or international level. We reserve the right to establish Other Channels to make sales that may compete with your location using our principal trademarks. These Other Channels could compete with you in the sale of your products. Built Franchise Systems is under no obligation to compensate its franchisees on sales Built Franchise Systems makes using Other Channels. Built Franchise Systems is under no obligation to compensate franchisees for soliciting or accepting orders in the franchisee's territory as the franchisee is granted no exclusive territory. Franchisees may not use Other Channels, including the Internet, catalog sales or telemarketing to make sales except that the Franchisee may provide catering services anywhere as long as such services comply with the current version of our Confidential Manual. All sales made from catering services must be included in the franchisee's Gross Sales. We reserve the right, directly or through third parties, to manufacture or sell, or both, anywhere, other products which are the same as or similar to those sold in *Built Custom Burgers* restaurants, but which bear trademarks that are not confusingly similar to any of the trademarks you are authorized to use under the Franchise Agreement.

We reserve the right, either directly or through affiliated entities, to operate or license others to operate businesses other than *Built Custom Burgers* restaurants anywhere, including, but not limited to, locations of our other restaurants or quick service restaurant concepts, and you agree that we or our affiliates may do so anywhere reserve the right, directly or through third parties, to manufacture or sell, or both, anywhere, other products which are the same as or similar to those sold in *Built Custom Burgers* restaurants, but which bear trademarks that are not confusingly similar to any of the trademarks you are authorized to use under the Franchise Agreement.

We may merge with, acquire and/or be acquired by any other business, including, without limitation, a business that competes with your *Built Custom Burgers* restaurant, or acquire and convert any retail stores, including, without limitation, retail stores operated by competitors, or otherwise operated independently or as part of, or in association with, any other system or chain, whether franchised or corporately owned.

On July 26, 2016, our affiliate, Kahala Brands, merged with a wholly-owned subsidiary of MTY. MTY's address is 8150 Transcanada Highway, Suite 200, Saint Laurent, Québec H4S 1MF. As described in Item 1, subsequent to the merger, in addition to the concepts franchised by Kahala Franchising or its current or former affiliates, MTY franchises over ~~sixty-fifty-five (6055)~~ different restaurant concepts and sub-franchises two (2) other different restaurant concepts.

Certain of the restaurant concepts franchised by MTY offer goods or services that are the same or similar to those that you will offer under the *Built Custom Burgers* brand. MTY offers the same or similar goods or services under the Au Vieux Duluth Express, Big Smoke Burger, Mr. Sub, O'Burger, Tutti Frutti, Valentine and Cultures trademarks. At this time, the Au Vieux Duluth Express, Mr. Sub, O'Burger, Tutti Frutti, Valentine and Cultures concepts are not franchised in the United States and are only offered in Canada by MTY subsidiary, MTY Canada, with no plans at this time to expand to the United States. The Big Smoke Burger concept is franchised in the United States by MTY subsidiary MTY Franchising USA, Inc. Big Smoke Burger

| Provision                              | Section in Franchise Agreement                              | Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------------|-------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. Length of the Term of the Franchise | Section 1.3                                                 | If you are purchasing a new or existing non-operating <i>Built Custom Burgers</i> restaurant, the term is (i) 10 years from the date the restaurant opens to the public if you own the property, or enter into a lease directly with the landlord or other third party, or (ii) the term of the sublease if you enter into a sublease with a <i>Built</i> Franchise Systems affiliate excluding any extensions or renewal options. If you are purchasing an existing and operating <i>Built Custom Burgers</i> restaurant, the term is (i) 10 years from the effective date of the franchise agreement if you own the property, or enter into a lease directly with the landlord or other third party, or (ii) the term of the sublease if you enter into a sublease with a Built Franchise Systems affiliate excluding any extensions or renewal options. If you are purchasing a <i>Built Custom Burgers</i> restaurant that will be co-branded into another affiliate-brand restaurant, the term of your franchise agreement for this brand will equal the remaining term of the existing franchise agreement for the store which this brand will be co-branded into, so both franchise agreements will expire concurrently. If you are entering into a renewal agreement for your <i>Built Customer Burgers</i> Restaurant, the term is five years from the effective date of your renewal Franchise Agreement. |
| b-1. Renewal or extension of the Term  | <del>Section</del><br><u>Article 13</u><br>(New & Transfer) | If you are not in default and satisfy certain conditions, you may renew for a single renewal term of 5 years, with no further right to renew at the end of the renewal term.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

| Provision                                    | Section in Franchise Agreement                              | Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------|-------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| c-1. Requirements for you to renew or extend | <del>Section</del><br><u>Article 13</u><br>(New & Transfer) | “Renewal” means to sign a renewal Franchise Agreement (which will be in the form of the Franchise Agreement then customarily used by us in renewing franchises) and all other agreements then customarily used by us in the granting of franchises. The renewal Franchise Agreement may have materially different terms and conditions than the original Franchise Agreement, including higher royalty and advertising fees. If offered, you must: give at least <del>120</del> <u>210</u> days’ notice prior to the expiration date of the term; not be in default; be in compliance with the terms of the Franchise Agreement and Confidential Manual; not have received more than 3 notices of default or breach of the Franchise Agreement during its term, nor more than 2 such notices during the 5 years immediately before the proposed renewal date; have a premises; sign a Franchise Agreement which may have materially different terms and conditions than the original Franchise Agreement; pay a renewal franchise fee; remodel or refurbish if necessary; and be current on all financial obligations to us. You must also sign the General Release in form attached to the Disclosure Document as <u>Exhibit Q</u> . |
| b-2. Successor Term                          | <del>Section</del><br><u>Article 13</u><br>(Renewal)        | If at the end of your renewal term, you are not in default and satisfy certain conditions, you may apply for a successor term.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

| Provision                                           | Section in Franchise Agreement                       | Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| c-2 Requirements for you to obtain a successor term | <del>Section</del><br><u>Article 13</u><br>(Renewal) | Applying for and entering into a “successor” term means to sign a new Franchise Agreement (which will be in the form of the Franchise Agreement then customarily used by us in entering into new franchises) and all other agreements then customarily used by us in the granting of franchises. The successor term Franchise Agreement may have materially different terms and conditions than the original Franchise Agreement, including higher royalty and advertising fees. In the event you desire to apply to us to extend your rights to operate the Franchised Business for a successor term, you must: give at least <del>120</del> <u>210</u> days’ notice prior to the expiration date of the renewal term; not be in default; be in compliance with the terms of the Franchise Agreement and Confidential Manual; not have received more than 3 notices of default or breach of the Franchise Agreement during its term, nor more than 2 such notices during the 5 years immediately before the proposed successor term effective date; have a premises; sign a Franchise Agreement which may have materially different terms and conditions than the original Franchise Agreement; pay an initial franchise fee; remodel or refurbish if necessary; and be current on all financial obligations to us. You must also sign the General Release in form attached to the Disclosure Document as <u>Exhibit Q</u> . We reserve the right to reject your application for a successor term, at our sole discretion, for any reason, without limitation, failure to meet our then-current standards or requirements for new franchisees. If we decide to reject your application for a successor term to operate the Franchise Business, we will give you a notice to that effect within sixty (60) days after you deliver to us your notice of intent to apply for a successor term. |
| d. Termination by you                               | Not Applicable                                       | -----                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| e. Termination by us without cause                  | Not Applicable                                       | -----                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| f. Termination by us with cause                     | Sections 3.1 (New & Transfer) and 14.1               | We can terminate only if you are in default under the Franchise Agreement or any other Franchise Agreements or other agreements between you and us.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| Provision                                         | Section in Franchise Agreement | Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------------|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| u. Dispute resolution by arbitration or mediation | Section 16.3                   | Any dispute that cannot be resolved by, or is not subject to, mediation shall be settled by arbitration administered by the American Arbitration Association in the county and state where the Franchised Business is located, before a single arbitrator who is a licensed U.S. attorney with at least five years of franchise law experience. This does not apply to a dispute where we bring an action for an express obligation to pay monies, declaratory relief, preliminary or permanent equitable relief, any action for damage to Built Franchise System's goodwill, proprietary information, trademarks, or for fraudulent conduct by franchisee, or where a delay in the dispute resolution process may adversely affect the public. Disputes must be conducted on an individual basis only. Any issue regarding the validity or applicability of the class action waiver must be decided by a court. If the waiver is deemed unenforceable, arbitration will not apply. |
| v. Choice of forum                                | Section 16.4<br><u>3</u>       | Arbitration takes place in the county and state where the Franchised Business is located. For certain excluded disputes (e.g., IP, money owed, injunctive relief, urgent matters), the Franchisor may bring an action in any court having jurisdiction, and the Franchisee waives all objections to venue and jury trial.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| w. Choice of law                                  | Section 16.4<br><u>3</u>       | Except to the extent governed by the United States trademark laws or the franchise laws of any state, the laws of the State where the Franchised Business is located govern all rights and obligations of the parties under this Agreement without regard to conflict of law, and any arbitration shall take place before a sole arbitrator in the County of the State where the Franchised Business is located.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

### **Sublease**

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

| Provision               | Section in Sublease | Summary                                                                                 |
|-------------------------|---------------------|-----------------------------------------------------------------------------------------|
| a. Term of the Sublease | 2.1                 | Ends one day before expiration of Master Lease, including any renewals of Master Lease. |

| Provision                                                                 | Section in Sublease | Summary                                                                                             |
|---------------------------------------------------------------------------|---------------------|-----------------------------------------------------------------------------------------------------|
| r. Non-competition covenants after the franchise is terminated or expires | Not Applicable      | None                                                                                                |
| s. Modification of the agreement                                          | Not Applicable      | None                                                                                                |
| t. Integration/merger clause                                              | 24                  | The Sublease, including any exhibits, contains the entire agreement of the parties.                 |
| u. Dispute resolution by arbitration or mediation                         | Not Applicable      | None                                                                                                |
| v. Choice of forum                                                        | Not Applicable      | None                                                                                                |
| w. Choice of law                                                          | 20                  | <u>The laws of the state where the Premises are located applies.</u> <del>Arizona law applies</del> |

## ITEM 18. PUBLIC FIGURES

We do not use a public figure to promote our franchise, nor is there any public figure who is involved in any respect with the actual management or control of our company.

## ITEM 19. FINANCIAL PERFORMANCE REPRESENTATIONS

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

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations 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 John Wuycheck, Built Franchise Systems, LLC, at 9311 E Via De Ventura, Scottsdale, Arizona 85258 (480) 362-4800, the Federal Trade Commission, and the appropriate state regulatory agencies.

| STATE      | YEAR | OUTLETS<br>AT<br>START<br>OF YEAR | OUTLETS<br>OPENED | OUTLETS<br>REACQUI<br>RED<br>FROM<br>FRANCHI<br>SEE | OUTLETS<br>CLOSED | OUTLETS<br>SOLD TO<br>FRANCHI<br>SEE | OUTLETS<br>AT END<br>OF THE<br>YEAR |
|------------|------|-----------------------------------|-------------------|-----------------------------------------------------|-------------------|--------------------------------------|-------------------------------------|
| All States |      |                                   |                   |                                                     |                   |                                      |                                     |
|            | 2023 | 0                                 | 0                 | 0                                                   | 0                 | 0                                    | 0                                   |
|            | 2024 | 0                                 | 0                 | 0                                                   | 0                 | 0                                    | 0                                   |
|            | 2025 | 0                                 | 0                 | 0                                                   | 0                 | 0                                    | 0                                   |
|            |      |                                   |                   |                                                     |                   |                                      |                                     |
| Total      |      |                                   |                   |                                                     |                   |                                      |                                     |
|            | 2023 | 0                                 | 0                 | 0                                                   | 0                 | 0                                    | 0                                   |
|            | 2024 | 0                                 | 0                 | 0                                                   | 0                 | 0                                    | 0                                   |
|            | 2025 | 0                                 | 0                 | 0                                                   | 0                 | 0                                    | 0                                   |

**Table No 5**  
**Projected Openings as of November 30, ~~2024~~2025**

| State | Franchise<br>Agreements Signed<br>but Outlet Not<br>Opened | Projected New<br>Franchised Outlets<br>in the Next Fiscal<br>Year | Projected New<br>Company-Owned<br>Outlets in the Next<br>Fiscal Year |
|-------|------------------------------------------------------------|-------------------------------------------------------------------|----------------------------------------------------------------------|
| CA    | 1                                                          | 0                                                                 | 0                                                                    |
| Total | 1                                                          | 0                                                                 | 0                                                                    |

A list of the names of all franchisees and the addresses and telephone numbers of their businesses will be provided in **Exhibit U** to this Disclosure Document when applicable.

The name, city, state and current business telephone number (or if unknown, the last known home telephone number) of every franchisee who had a business terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement during the most recently completed fiscal year or who has not communicated with us within 10 weeks of the issuance date of this disclosure document will be listed on **Exhibit U** to this Disclosure Document when applicable. In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with the *Built Custom Burgers* franchise system. You may wish to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you.

There are no trademark-specific franchisee organizations associated with the franchise system being offered under this Disclosure Document that have been created, sponsored or endorsed by us.

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

## **ITEM 21. FINANCIAL STATEMENTS**

Attached to this Disclosure Document as **Exhibit V** are our audited financial statements for the fiscal years ended November 30, 202~~5~~<sup>4</sup>, 202~~4~~<sup>3</sup>, and for the fiscal years ended on November 30, 202~~4~~<sup>3</sup>, and 202~~3~~<sup>2</sup>.

## **ITEM 22. CONTRACTS**

The contracts we use in this state are exhibits to this Disclosure Document as follows:

|             |                                                                                                                                                   |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| Exhibit D   | Asset Purchase Agreement (For Sale of a Corporate Store to a Franchisee) with Promissory Note and Security Agreement and Guaranty (if applicable) |
| Exhibit E-1 | Franchise Agreement (New)                                                                                                                         |
| Exhibit E-2 | Franchise Agreement (Renewal)                                                                                                                     |
| Exhibit E-3 | Franchise Agreement (Transfer)                                                                                                                    |
| Exhibit F-1 | Guaranty of Franchise Agreement                                                                                                                   |
| Exhibit F-2 | Non-Disclosure and Non-Competition Agreement                                                                                                      |
| Exhibit G   | Collateral Assignment and Irrevocable Special Power of Attorney                                                                                   |
| Exhibit H   | Amendment to Franchise Agreement (for non-traditional locations excluding those co-branded with another affiliated brand)                         |
| Exhibit I   | Amendment to Franchise Agreement (for co-branded non-traditional locations)                                                                       |
| Exhibit J   | In-Store Training Release and Waiver of Liability Agreement                                                                                       |
| Exhibit K   | Addendum to the Franchise Agreement for SBA Loans                                                                                                 |
| Exhibit L   | Required Lease Terms (Lease Addendum to Lease Agreement)                                                                                          |
| Exhibit M   | Lease Guaranty Acknowledgement                                                                                                                    |
| Exhibit N   | Lease Review and/or Negotiation Agreement and Release and State Addenda                                                                           |
| Exhibit O   | Sublease and Guaranty of Sublease                                                                                                                 |
| Exhibit P   | Pre-Authorized Electronic Funds Transfer Form                                                                                                     |
| Exhibit P-1 | Gift Card Participation Agreement                                                                                                                 |
| Exhibit Q   | General Release for Renewal of Franchise Agreement                                                                                                |
| Exhibit R-1 | Consent to Transfer and Release Agreement (without Sublease)                                                                                      |
| Exhibit R-2 | Consent to Transfer and Release Agreement (with Sublease)                                                                                         |
| Exhibit S   | State Specific Addenda to Franchise Documents                                                                                                     |
| Exhibit W   | Intentionally Omitted                                                                                                                             |
| Exhibit X   | Addendum for Sale of Company-Affiliated Owned Stores                                                                                              |
| Exhibit Y   | Receipts                                                                                                                                          |

**ADDENDUM TO THE MTY FRANCHISING USA, INC.  
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF CALIFORNIA**

- A. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.**
- B. Neither the franchisor, franchise broker nor any person in Item 2 of the Disclosure Document are 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 person from membership in such association or exchange.**
- C. 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.).**
- D. The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the agreements. This provision may not be enforceable under California law.**
- EF. Section 31125 of the California Corporations Code requires us to give you a disclosure document, in a form containing the information that the commissioner may by rule or order require, before a solicitation of a proposed material modification of an existing franchise.**
- EG. YOU MUST SIGN A GENERAL RELEASE IF YOU RENEW OR TRANSFER YOUR FRANCHISE. CALIFORNIA CORPORATIONS CODE §31512 VOIDS A WAIVER OF YOUR RIGHTS UNDER THE FRANCHISE INVESTMENT LAW (CALIFORNIA CORPORATIONS CODE §§31000 THROUGH 31516).**
- GH. BUSINESS AND PROFESSIONS CODE §20010 VOIDS A WAIVER OF YOUR RIGHTS UNDER THE FRANCHISE RELATIONS ACT (BUSINESS AND PROFESSIONS CODE §§20000 THROUGH 20043).**
- HI. California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination or non-renewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law will control.**
- IJ. If the Franchisee resides in the State of California or the franchised business is located within the State of California, the venue for any dispute may be within the State of California. Business and Professions Code Section 20040.5 voids restricting a venue to a forum outside California with respect to any claim arising under or relating to a Franchise Agreement involving a franchise business operating in California.**
- JK. 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.**

**| KL. OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT. ANY COMPLAINTS CONCERNING THE CONTENTS OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT at [www.dbo.ca.gov](http://www.dbo.ca.gov).**

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**ADDENDUM TO THE MTY FRANCHISING USA, INC.  
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF MINNESOTA**

1. The following legends are added to the Risk Factors on the Cover Page:

**THESE FRANCHISES HAVE BEEN REGISTERED UNDER THE MINNESOTA FRANCHISE ACT. REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE COMMISSIONER OF SECURITIES-COMMERCE OF MINNESOTA OR A FINDING BY THE COMMISSIONER THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE, AND NOT MISLEADING.**

**THE MINNESOTA FRANCHISE ACT MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WHICH IS SUBJECT TO REGISTRATION WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE, AT LEAST 7 DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST 7 DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION, BY THE FRANCHISEE, WHICHEVER OCCURS FIRST, A COPY OF THIS PUBLIC OFFERING STATEMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE FRANCHISE. THIS PUBLIC OFFERING STATEMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.**

**IF THIS DISCLOSURE DOCUMENT IS NOT DELIVERED ON TIME, OR IF IT CONTAINS A FALSE, INCOMPLETE, INACCURATE OR MISLEADING STATEMENT, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND TO THE COMMISSIONER OF SECURITIES, DEPARTMENT OF COMMERCE, SECURITIES DIVISION, 85 7<sup>TH</sup> PLACE EAST, SUITE 500, ST. PAUL, MINNESOTA 55101, WHICH ADMINISTERS AND ENFORCES THE MINNESOTA FRANCHISE ACT.**

2. Pursuant to Minnesota Rules 604.113, in Item 6, the table entry in the second column pertaining to "Amount" for "Non-Sufficient Funds Fee" is hereby deleted and replaced with the following:

\$30 for each electronic funds transfer returned for non-sufficient funds; \$25 for each check or draft returned for non-sufficient funds

3. The following paragraph is added to Item 13:

The franchisor will protect the franchisee's rights to use the trademarks, service marks, trade names, logotypes or other commercial symbols or indemnify the franchisee from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the name.

Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to Minnesota Statutes, Section 80C.12, Subd. 1(g).

4. The following statement is added at the end of Item 17.c and 17.m:

4. 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.

5. 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.

6. 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.

7. The franchisor may, if it chooses, negotiate with you about items covered in the prospectus. However, the franchisor cannot use the negotiating process to prevail upon a prospective franchisee to accept terms which are less favorable than those set forth in this prospectus.

8. The Franchise Agreement and the other documents to be signed by the franchisee provide that we do not grant you any exclusive or protected territory for your restaurant.

9. The Franchise Agreement and the other documents to be signed by you further allow the franchisor to locate franchised or corporate-owned locations of food concepts similar to *Built Custom Burgers* in the immediate vicinity of your restaurant. There may also be locations of food concepts similar to *Built Custom Burgers* that are owned by affiliates of the franchisor already open and operating in the immediate vicinity of your restaurant.

10. Section 683.8 of the General Business Law of the State of New York requires franchisor to give you a copy of the Franchise Disclosure Document at the earlier of: (i) the first personal meeting; (ii) 10 business days before the execution of the Franchise Agreement; or (iii) 10 business days before the payment of any consideration that relates to the franchise relationship.

11. 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.

#### FACTORS TO BE CONSIDERED:

~~Any disputes, differences or controversies that arise pursuant to the Franchise Agreement or breach thereof which cannot be settled by mediation shall be settled by arbitration. All such proceedings shall be held in Maricopa County, Arizona. This information should be taken into consideration in determining whether or not to purchase this franchise.~~

## **WASHINGTON ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT, THE FRANCHISE AGREEMENT, AND ALL RELATED AGREEMENTS**

The provisions of this Addendum form an integral part of, are incorporated into, and modify the Franchise Disclosure Document, the franchise agreement, and all related agreements regardless of anything to the contrary contained therein. This addendum applies if: (a) the offer to sell a franchise is accepted in Washington; (b) the purchaser of the franchise is a resident of Washington; and/or (c) the franchised business that is the subject of the sale is to be located or operated, wholly or partly, in Washington.

1. **Conflict of Laws.** In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, chapter 19.100 RCW will prevail.
2. **Franchisee Bill of Rights.** RCW 19.100.180 may supersede provisions in the franchise agreement or related agreements concerning your relationship with the franchisor, including in the areas of termination and renewal of your franchise. There may also be court decisions that supersede the franchise agreement or related agreements concerning your relationship with the franchisor. Franchise agreement provisions, including those summarized in Item 17 of the Franchise Disclosure Document, are subject to state law.
3. **Site of Arbitration, Mediation, and/or Litigation.** In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.
4. **General Release.** A release or waiver of rights in the franchise agreement or related agreements purporting to bind the franchisee to waive compliance with any provision under the Washington Franchise Investment Protection Act or any rules or orders thereunder is void except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2). In addition, any such release or waiver executed in connection with a renewal or transfer of a franchise is likewise void except as provided for in RCW 19.100.220(2).
5. **Statute of Limitations and Waiver of Jury Trial.** Provisions contained in the franchise agreement or related agreements that unreasonably restrict or limit the statute of limitations period for claims under the Washington Franchise Investment Protection Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.
6. **Transfer Fees.** Transfer fees are collectable only to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.
7. **Termination by Franchisee.** The franchisee may terminate the franchise agreement under any grounds permitted under state law.
8. **Certain Buy-Back Provisions.** Provisions in franchise agreements or related agreements that permit the franchisor to repurchase the franchisee's business for

any reason during the term of the franchise agreement without the franchisee's consent are unlawful pursuant to RCW 19.100.180(2)(j), unless the franchise is terminated for good cause.

9. **Fair and Reasonable Pricing.** Any provision in the franchise agreement or related agreements that requires the franchisee to purchase or rent any product or service for more than a fair and reasonable price is unlawful under RCW 19.100.180(2)(d).
10. **Waiver of Exemplary & Punitive Damages.** RCW 19.100.190 permits franchisees to seek treble damages under certain circumstances. Accordingly, provisions contained in the franchise agreement or elsewhere requiring franchisees to waive exemplary, punitive, or similar damages are void, except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2).
11. **Franchisor's Business Judgement.** Provisions in the franchise agreement or related agreements stating that the franchisor may exercise its discretion on the basis of its reasonable business judgment may be limited or superseded by RCW 19.100.180(1), which requires the parties to deal with each other in good faith.
12. **Indemnification.** Any provision in the franchise agreement or related agreements requiring the franchisee to indemnify, reimburse, defend, or hold harmless the franchisor or other parties is hereby modified such that the franchisee has no obligation to indemnify, reimburse, defend, or hold harmless the franchisor or any other indemnified party for losses or liabilities to the extent that they are caused by the indemnified party's negligence, willful misconduct, strict liability, or fraud.
13. **Attorneys' Fees.** If the franchise agreement or related agreements require a franchisee to reimburse the franchisor for court costs or expenses, including attorneys' fees, such provision applies only if the franchisor is the prevailing party in any judicial or arbitration proceeding.
14. **Noncompetition Covenants.** Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). 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 provision contained in the franchise agreement or elsewhere that conflicts with these limitations is void and unenforceable in Washington.
15. **Nonsolicitation Agreements.** RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.
16. **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.

**17. Prohibitions on Communicating with Regulators.** Any provision in the franchise agreement or related agreements that prohibits the franchisee from communicating with or complaining to regulators is inconsistent with the express instructions in the Franchise Disclosure Document and is unlawful under RCW 19.100.180(2)(h).

**18. Advisory Regarding Franchise Brokers.** Under the Washington Franchise Investment Protection Act, a “franchise broker” is defined as a person that engages in the business of the offer or sale of franchises. A franchise broker represents the franchisor and is paid a fee for referring prospects to the franchisor and/or selling the franchise. If a franchisee is working with a franchise broker, franchisees are advised to carefully evaluate any information provided by the franchise broker about a franchise.

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**ADDENDUM TO THE MTY FRANCHISING USA, INC.  
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF WASHINGTON**

~~\_\_\_\_\_ The State of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with the Franchisor, including the areas of termination and renewal of your Franchise Agreement. 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 Agreement.~~

~~1. \_\_\_\_\_ If any provisions governing termination or non renewal disclosed herein are inconsistent with Washington law, then Washington law shall apply. The applicable law reads as follows:~~

~~\_\_\_\_\_ Section 19.100.180. Without limiting the other provisions of this chapter, the following specific rights and prohibitions shall govern the relation between the franchisor or subfranchisor and the franchisees:~~

~~\_\_\_\_\_ (2) For the purpose of this chapter and without limiting its general application, it shall be an unfair or deceptive act or practice or an unfair method of competition and therefore unlawful and violation of this chapter for any person to:~~

~~\_\_\_\_\_ (a) Restrict or inhibit the right of the franchisees to join an association of franchisees.~~

~~\_\_\_\_\_ (b) Require a franchisee to purchase or lease goods or services of the franchisor or from approved sources of supply unless and to the extent that the franchisor satisfies the burden of proving that such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on business grounds, and do not substantially affect competition: PROVIDED, That this provision shall not apply to the initial inventory of the franchise. In determining whether a requirement to purchase or lease goods or services constitutes an unfair or deceptive act or practice or an unfair method of competition the courts shall be guided by the decisions of the courts of the United States interpreting and applying the anti-trust laws of the United States.~~

~~\_\_\_\_\_ (c) Discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is: (i) Reasonable, (ii) based on franchises granted at materially different times and such discrimination is reasonably related to such difference in time, or is based on other proper and justifiable distinctions considering the purposes of this chapter, and (iii) is not arbitrary. However, nothing in (c) of this subsection precludes negotiation of the terms and conditions of a franchise at the initiative of the franchisees.~~

~~\_\_\_\_\_ (d) Sell, rent, or offer to sell to a franchisee any product or service for more than a fair and reasonable price.~~

~~\_\_\_\_\_ (e) Obtain money, goods, services, anything of value, or any other benefit from any other person with whom the franchisee does business on account of such business unless such benefit is disclosed to the franchisee.~~

~~\_\_\_\_\_ (f) If the franchise provides that the franchisee has an exclusive territory, which exclusive territory shall be specified in the franchise agreement, for the franchisor or subfranchisor to compete with the franchisee in an exclusive territory or to grant competitive franchises in the exclusive territory area previously granted to another franchisee.~~

~~\_\_\_\_\_ (g) Require franchisee to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by this chapter, except as otherwise permitted by RCW 19.100.220.~~

~~\_\_\_\_\_ (h) Impose on a franchisee by contract, rule, or regulation, whether written or oral, any standard of conduct unless the person so doing can sustain the burden of proving such to be reasonable and necessary.~~

~~\_\_\_\_\_ (i) Refuse to renew a Franchise Agreement without fairly compensating the franchisee for the fair market value, at the time of expiration of the Franchise Agreement, or the franchisee's inventory, supplies, equipment, and furnishings purchased from the franchisor and good will, exclusive of personalized materials which have no value to the franchisor, and inventory, supplies, equipment and furnishings not reasonably required in the conduct of the franchised business: PROVIDED, that compensation need not be made to a franchisee for good will if: (i) the franchisee has been given one year's notice of nonrenewal; and (ii) the franchisor agrees in writing not to enforce any covenant which restrains the franchisee from competing with the franchisor: PROVIDED FURTHER, that a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to franchisor.~~

~~\_\_\_\_\_ (j) Terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include, without limitation, the failure of the franchisee to comply with lawful material provisions of the franchise or other agreement between the franchisor and the franchisee and to cure such default after being given written notice thereof and a reasonable opportunity, which in no event need be more than thirty days, to cure such default, or if such default cannot reasonably be cured within thirty days, the failure of the franchisee to initiate within thirty days substantial and continuing action to cure such default: PROVIDED, that after three willful and material breaches of the same term of the Franchise Agreement occurring within a twelve month period, for which the franchisee has been given notice and an opportunity to cure as provided in this subsection, the franchisor may terminate the Franchise Agreement upon any subsequent month period without providing notice or opportunity cure: PROVIDED FURTHER, that a franchisor may terminate a Franchise Agreement without prior notice or opportunity to cure a default if the franchisee: (i) is adjudicated bankrupt or insolvent; (ii) makes an assignment for the benefit of creditors or similar disposition of the assets of the franchised business; (iii) voluntarily abandons the franchised business; or (iv) is convicted of or pleads guilty or no contest to a charge of violating any law relating to the franchised business. Upon termination for good cause the franchisor shall purchase from the franchisee at a fair market value at the time of termination, the franchisee's inventory and supplies, exclusive of: (i) personalized materials which have no value to the franchisor; (ii) inventory and supplies not reasonably required in the conduct of the franchised business; and (iii) if the franchisee is to retain control of the premises of the franchised business, any inventory and supplies not purchased from the franchisor or on his express requirement: PROVIDED, that a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor."~~

~~\_\_\_\_\_ (k) 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.~~

~~2. \_\_\_\_\_ In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.~~

~~3. \_\_\_\_\_ A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act 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, rights or remedies under the Act such as a right to a jury trial may not be enforceable.~~

4. ~~Transfer fees are collectable to the extent that they reflect the Franchisor's reasonable estimated or actual costs in effecting a transfer.~~

5. ~~Ranch\*1, Inc. and its subsidiaries, all affiliates of MTY Franchising USA, Inc., filed for Bankruptcy Protection Code Chapter 11 of the United States Bankruptcy Code on July 3, 2001. Full disclosure of the particulars of this filing is in Item 4 of this Disclosure Document.~~

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**10. Amendment, Modification or Waiver.**

- (a) No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the Parties and specifying with particularity the nature and extent of the amendment, modification or waiver. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion.
- (b) Failure on the part of any Party to complain of any act or failure to act of the other Party or to declare the other Party in default, irrespective of how long the failure continues, shall not constitute a waiver by that Party of its rights under this Agreement.

**11. Entire Agreement.** This Agreement, including the exhibits hereto, contains the entire understanding and agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings between the Parties with respect to such subject matter. Each of the exhibits is incorporated in this Agreement by this reference and constitutes a part of this Agreement.

**12. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Party.

**13. Dispute Resolution.**

- (a) Except as otherwise provided herein, any dispute, claim or controversy arising out of or relating to this Agreement, the breach hereof, the rights and obligations of the Parties hereto or the relationship between the Parties, or the entry, making, interpretation, or performance of either Party under this Agreement ("Dispute"), which cannot be resolved by mediation under Section 13(d) below or is not subject to mediation under the terms of this Agreement, shall be settled by arbitration administered by the American Arbitration Association ("AAA") in accordance with its Commercial Arbitration Rules as modified below.
- (b) Any arbitration shall take place before a sole arbitrator in the county and state where the Franchised Business is located~~in Maricopa County, Arizona or, if our headquarters are no longer located in Maricopa County, Arizona, then the arbitration shall take place in the county in which our principal place of business is located at the time the arbitration is commenced.~~ Purchaser agrees to conducting the arbitration where Seller is located is appropriate. The Parties agree that the arbitrator shall be an attorney licensed to practice law in the United States and must have a minimum of five (5) years of experience in franchise law. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The arbitrator shall, in the award, allocate all of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorney's fees of the prevailing Party, against the Party who did not prevail. To the extent permitted by applicable law, no issue of fact or law shall be given preclusive or collateral estoppel effect in any other dispute, arbitration proceeding or litigation, except to the extent such issue may have been specifically determined in another proceeding between the Parties. This agreement to arbitrate shall survive any termination or expiration of this Agreement, however effected. The Parties agree

that any arbitration shall be solely between them (including any affiliates) and shall not include as a Party, by consolidation, joinder, or in any other manner, any other person or entity, unless both Parties consent in writing. Both Parties shall have the absolute right to refuse such consent. Further, the Parties expressly waive any right to bring and/or participate in any class or other consolidated, joined or multi-party arbitration claim or proceeding, whether or not permissible under the AAA Commercial Arbitration Rules, including, but not limited to, any claim brought on their behalf by an association of which it, he or she is a member. At the request of any Party, the arbitration shall be conducted in a manner that maintains the confidentiality of the proceedings.

- (c) The arbitrator(s) will issue a reasoned award, with findings of fact and conclusions of law. Actions to enforce an express obligation to pay monies may be brought under the Expedited Procedures of the AAA's Commercial Arbitration Rules. The Federal Arbitration Act shall govern, excluding all state arbitration laws. The laws of the state where the Franchised Business is located ~~Arizona law~~ will govern all other issues. With respect to discovery, the arbitrator shall require each Party to make a good cause showing before any discovery exceeding that specifically authorized by the AAA Commercial Arbitration Rules will be granted.
- (d) Prior to the commencement of an arbitration proceeding, the Parties must first submit any Dispute to non-binding mediation. At the request of any Party, the mediation will be confidential. The mediation shall be conducted in the county and state where the Franchised Business is located ~~Maricopa County, Arizona or in the county in which our headquarters are located at the time of mediation~~, unless the Parties shall mutually agree to a different location. The Parties to the mediation will share equally in its costs and expenses, except those costs and expenses incurred separately by each Party, including, without limitation, counsel fees and expenses. The mediation process will be deemed "Completed" when the Parties agree that it has been completed, the mediator declares that any impasse exists or sixty (60) days have elapsed since the date of the initiating Party's notice to the other Party that it is initiating the mediation process, whichever occurs first.
- (e) Notwithstanding anything contained in this Agreement to the contrary, the provisions of Sections 13(a), 13(b), 13(c) and 13(d) do not apply to a Dispute where: (i) Seller brings an action for an express obligation to pay monies, declaratory relief, preliminary or permanent equitable relief, any action at law for damage to Seller's goodwill, the confidential information, the proprietary marks or for fraudulent conduct by Purchaser; or (ii) the delay resulting from the mediation process may endanger or adversely affect the public (for example, unhealthy, unsafe or unsanitary conditions would continue to exist). For such disputes, Seller may bring an action in any federal or state court having jurisdiction, whether for monetary damages and/or for temporary preliminary and permanent injunctive relief or specific performance in addition to, and not exclusive of, any other remedies available to Seller. Purchaser hereby consents to and waives any objection or defense and agrees not to contest venue, forum non conveniens or jurisdiction of such court or arbitration.
- (f) Disputes concerning the validity or scope of arbitration, including whether a dispute is subject to arbitration, are beyond the authority of the arbitrator(s) and will be determined by a court of competent jurisdiction pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 et seq., as amended from time to time.

- (g) Either Party may appeal the final award of the arbitrator, if it is over One Hundred Thousand Dollars (\$100,000), to the appropriate U.S. District Court. The Court's review of the arbitrator's findings of fact will be under the clearly erroneous standard, and the Court's review of all legal rulings will be *de novo*. If it should be determined that this provision for federal court review is not enforceable, then either Party may appeal the arbitrator's final award, if it is over One Hundred Thousand Dollars (\$100,000), to a panel of three arbitrators chosen under AAA procedures, which will employ the same standards of review stated immediately above.

**14. Applicable Law and Forum; Waiver of Jury; Statute of Limitations.**

Except to the extent that the United States Trademark Act of 1946, as amended (15 U.S.C., § 1051 et seq.) or the franchising laws of any state that may be applicable, the laws of the state where the Franchised Business is located shall ~~State of Arizona~~ govern all rights and obligations of the Parties under this Agreement. Seller and Purchaser agree, subject to the mandatory mediation and arbitration provisions of Section 13 of this Agreement, that any appropriate state or federal court located in the county and state where the Franchised Business is located shall ~~Maricopa County, Arizona has have~~ exclusive jurisdiction over any Dispute arising under or in connection with this Agreement and is the proper forum in which to adjudicate the case or controversy. Notwithstanding the foregoing, any action initiated by Seller may, at Seller's election, be brought in any jurisdiction where Purchaser is domiciled or that has jurisdiction over Purchaser. The Parties hereto irrevocably submit to the jurisdiction of, and venue in, any such court, and hereby waive any objection or defense thereto. THE PARTIES AGREE THAT ALL DISPUTES SUBMITTED TO THE COURT PURSUANT TO THIS SECTION SHALL BE TRIED TO THE COURT SITTING WITHOUT A JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR PROVISIONS.

Notwithstanding anything contained in this Agreement to the contrary, the Parties agree that any claims under, arising out of, or related to, this Agreement must be brought within two (2) years of the date on which the underlying cause of action accrued, and Seller and Purchaser hereby waive any right to bring any such action after such two-year period except for the collection of any unpaid amounts due to Seller or its affiliate.

**15. Attorneys' Fees.** In the event of any claim, controversy or dispute arising out of or relating to this Agreement, or the breach thereof, the prevailing Party may recover reasonable attorneys' fees incurred in connection with any court or arbitration proceeding.

**16. Remedies Cumulative.** The remedies of the Parties under this Agreement are cumulative and shall not exclude any other remedies to which any Party may be lawfully entitled.

**17. Captions.** Captions used throughout this Agreement are for convenience of reference only and shall not be considered in any manner in the construction or interpretation hereof.

**18. Additional Actions.** Each Party agrees to do all acts and things and to make, execute and deliver such written instruments as may from time to time be reasonably required to carry out the terms and provisions of this Agreement.

## PROMISSORY NOTE AND SECURITY AGREEMENT

Note Amount:  
[\$AMOUNT]

Scottsdale, Arizona  
[DATE]

1. Promise to Pay. For value received, [NAME], a(n) [\_\_\_\_\_] corporation / limited liability company / individual] ("Maker"), promises to pay to the order of [Holder Entity], a [state] [Corporation/Limited Liability Company, etc.] ("Holder"), at 9311 East Via De Ventura, Scottsdale, Arizona 85258, or at such other address as Holder may designate at any time by written notice to Maker, in lawful money of the United States of America, the principal sum of XX ~~Thousand~~ Dollars (~~\$XX,000.00~~) together with all then-accrued and unpaid interest and other amounts that are Maker's obligations under this Promissory and Security Agreement ("Note"), if any. Maker and Holder may also be referred to in this Agreement as a "Party" and collectively as "Parties." The Note balance represents the principal amount owing by Maker to Holder for ~~[description of debt]the purchase price of the Store (as defined below)~~ due under the Asset Purchase Agreement in the aggregate amount of XX ~~Thousand~~ Dollars (~~\$XX,000.00~~) [plus the UCC-1 filing fee (as described in Section 7) in the amount of ~~One Hundred~~XX Dollars (\$~~100XX~~)](collectively, "Debt") for the ~~Built Custom Burgers~~[Brand] store/restaurant number \_\_\_\_ at the following location \_\_\_\_\_ ("Store").

2. Computation of Interest. Except as otherwise set forth in this Note, this Note shall [not bear interest OR bear interest at the rate of \_\_\_\_% per annum] based on a \_\_\_\_ [month/year] amortization schedule.

3. Required Payments; Method of Payment. Principal and interest, if any, shall be repaid to Holder in a total of \_\_\_\_\_ (XX) [weekly/monthly] installments, consisting of the first \_\_\_\_\_ (XX) installments in the amount of \_\_\_\_\_ **AND xx/100 DOLLARS (\$\_\_\_\_\_.),** and the final installment in the amount of \_\_\_\_\_ **AND xx/100 DOLLARS (\$\_\_\_\_\_.)** which installments shall be due on the [day of the week, or date of the month] (X<sup>xx</sup>) of each consecutive [week / month], with the first installment due on [DATE] and the final installment due on [DATE], all as set forth on the Amortization Schedule attached hereto as **EXHIBIT "1"** and incorporated herein by reference. Maker authorizes Holder (or one of its affiliates) to deduct payments owed by Maker (or one of its affiliates) to Holder under this Note out of Maker's bank accounts via electronic funds transfer in the same way Holder (or one of its affiliates) is authorized to collect payment under the Franchise Agreement entered into by and between Holder and Maker dated \_\_\_\_\_, 20\_\_\_\_ or other franchise documents that Maker (or a related entity) entered into with Holder (or one of its affiliates) for the Store (individually and collectively, "Franchise Agreement"). All payments due under this Note shall be deducted by Holder's close of business from Maker's Depository Account (as defined in the Franchise Agreement) on the day they are due (or the preceding banking business day if such date is a holiday or falls on a weekend). Holder shall not be responsible for any interest charges for any overage collected due to Maker's failure to timely authorize payment. Additionally, Holder shall not be responsible for any bank service charges incurred by Maker which result in the withdrawal of funds from Maker's Depository Account. Maker shall pay Holder FIFTY AND 00/100 DOLLARS (\$50.00) for each withdrawal attempted from Maker's Depository Account pursuant to this Section 3 that is returned for non-sufficient funds. Maker shall also reimburse Holder for all other costs incurred by Holder in collecting or attempting to collect funds due Holder from the Depository Account (for example, without limitation, charges for non-sufficient funds, uncollected funds or other discrepancies in deposits or maintenance of the Depository Account balance in accordance with the terms of the Franchise Agreement). Holder does not have to make or give "presentment, demand, protest or notice" to get paid. Maker hereby waives any right to "presentment, demand, protest and notice" as set forth in Section 10 below.

4. Application of Payments. All payments and other credits due under this Note shall be applied: [if part of Note balance a non-refundable fee (i) first to the amount of principal allocated to the Type of Fee/Payment Owed~~Initial Franchisee Fee/Renewal Fee/Transfer Fee,~~] [(i) first][(ii) second,] to fees, costs and expenses payable by Maker under this Note, [(ii) second,][(iii) third,] to accrued and unpaid interest, if any, and [(iii) third][(iv) fourth,] to principal.

5. Collection Costs. If suit, arbitration, or other legal proceeding or any non-judicial foreclosure proceeding is instituted or any other action is taken by Holder to collect all or any part of the indebtedness evidenced hereby or to proceed against the Collateral (as defined below) for any portion of such indebtedness or against any guarantor of the payment of any portion of the indebtedness, Maker promises to pay Holder's attorneys' fees and other costs (to be determined by the court and not by a jury) incurred thereby. Such fees and costs shall be included in any judgment or arbitration award obtained by Holder, and shall bear interest at the default rate set forth in Section 12.

6. Optional Prepayments. Maker shall have the option to prepay this Note, in full or in part, at any time and from time to time, without penalty. Maker shall identify each optional prepayment of principal as such by written notice to Holder at the time of payment, and no such prepayment shall decrease or defer the monthly installment payments required by Section 3 above.

7. Security Interest. The indebtedness evidenced by this Note shall be secured by, and Maker hereby grants to Holder, a security interest in the equipment, inventory, leasehold improvements, and all proceeds thereof, and all increases, additions, accessories, accessions, substitutions, and replacements thereto located at the Store and other stores owned by Maker, as applicable (the "Other Stores") including, without limitation, insurance proceeds ("Collateral"). A description of the Collateral is attached hereto as **EXHIBIT "2"** and incorporated herein by reference. Concurrent with the execution of this Note or at any time after the execution of this Note so long as a balance remains outstanding under this Note, Maker shall execute and deliver to Holder, or alternatively Maker gives Holder permission to file, at Maker's expense, a UCC-1 financing statement, evidencing the security interest granted by this Section 7.

8. Guaranty of Promissory Note and Security Agreement. [If Maker is an individual and married, Maker represents and warrants that Maker's obligations under this Note are guaranteed by Maker's spouse and/or any other individuals requested by Holder as consideration for its agreements herein (together, "Guarantors"), pursuant to the Guaranty of Promissory Note and Security Agreement attached hereto as **EXHIBIT "3"** and incorporated herein by reference.] If Maker is a corporation, limited liability company, or other business entity, Maker represents and warrants that Maker's obligations under this Note are guaranteed by each of the persons who are shareholders, members, or other owners, direct or indirect, of Maker (and their respective spouses, if married); and/or any other individuals requested by Holder as consideration for its agreements herein (together, also "Guarantors"), pursuant to the Guaranty of Promissory Note and Security Agreement attached hereto as **EXHIBIT "3"** and incorporated herein by reference. In the event any person who has not previously signed a Guaranty of Promissory Note and Security Agreement becomes Maker's spouse; person who is a shareholder, member, or other owner, direct or indirect, of Maker (or their respective spouses, if married); and/or any other individual requested by Holder as consideration for its agreements herein, at any time after the execution of this Agreement, Maker must cause such person(s) to immediately execute and deliver a Guaranty of Franchise Agreement to Holder.

If to Holder: [Seller Entity]  
Attention: Legal Department  
9311 East Via De Ventura  
Scottsdale, Arizona 85258  
Telephone Number: (480) 362-4800  
Facsimile Number: (480) 362-4819

If to Maker: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Facsimile Number: \_\_\_\_\_

17. Governing Law. This Note shall be construed according to the substantive laws and judicial decisions of the State of Arizona, without regard to any conflict of laws principles. Any action brought to enforce this Note may be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Maricopa. Maker and any sureties, endorsers and guarantors irrevocably consent to jurisdiction and venue in such court for such purposes.

18. RELEASE. IN EXCHANGE FOR HOLDER'S AGREEMENT TO ARRANGE FOR MAKER'S PAYMENT OF THE DEBT, MAKER AND EACH OF ITS CURRENT, PAST AND FUTURE PREDECESSORS, SUCCESSORS AND ASSIGNS, AND EACH OF ITS AND THE FOREGOING ENTITIES' RESPECTIVE PARENTS, SUBSIDIARIES, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, GUARANTORS, INSURERS, SPOUSES, HEIRS, EXECUTORS, TRUSTEES, AND ESTATES, IF ANY, OF ANY AND ALL SUCH ENTITIES (COLLECTIVELY WITH MAKER "MAKER PARTIES"), HEREBY IRREVOCABLY AND UNCONDITIONALLY RELEASE, REMISE AND FOREVER DISCHARGE HOLDER AND EACH OF ITS CURRENT, PAST AND FUTURE PREDECESSORS, SUCCESSORS AND ASSIGNS, AND EACH OF ITS AND THE FOREGOING ENTITIES RESPECTIVE PARENTS, SUBSIDIARIES, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, GUARANTORS, INSURERS, SPOUSES, HEIRS, EXECUTORS, TRUSTEES, AND ESTATES, IF ANY, OF ANY AND ALL SUCH ENTITIES (COLLECTIVELY WITH HOLDER "HOLDER PARTIES"), FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, SUITS, DEBTS, DUTIES, ACCOUNTS, COVENANTS, CONTRACTS, AGREEMENTS, PROMISES, DAMAGES, JUDGMENTS, TAXES, LIABILITIES AND OBLIGATIONS, BOTH CONTINGENT AND FIXED, KNOWN AND UNKNOWN, NOW EXISTING OR HEREAFTER, OF EVERY KIND AND NATURE WHATSOEVER, IN LAW OR EQUITY, OR OTHERWISE, UNDER LOCAL, STATE, OR FEDERAL LAW OR THE LAW OF ANY OTHER APPLICABLE JURISDICTION, THAT ANY OF THE MAKER PARTIES HAVE AGAINST ANY OF THE HOLDER PARTIES, INCLUDING, WITHOUT LIMITATION, THOSE ARISING FROM, IN CONNECTION WITH OR RELATING TO: (I) THE FRANCHISE AGREEMENT (INCLUDING ANY AMENDMENTS OR MODIFICATIONS THERETO); (II) THE OPERATION, LEASING OR SUBLEASING OF THE STORE; AND (III) THE OFFERING AND SALE OF THE FRANCHISE FOR THE STORE; ARISING FROM AN ACT, OMISSION, CONDUCT OR ACTIVITY OCCURRING BEFORE AND INCLUDING THE DATE OF THIS NOTE WRITTEN ABOVE.

## GUARANTY OF PROMISSORY NOTE AND SECURITY AGREEMENT

This GUARANTY OF PROMISSORY NOTE AND SECURITY AGREEMENT ("Guaranty") is dated as of [Date] ("Effective Date"), and is executed by each of the undersigned ([individually and collectively, ]"Guarantor") in favor of [SELLING ENTITY], a [state] [Corporation/Limited Liability Company, etc.] ("Seller"). To the extent this Guaranty contains terms and conditions that differ from those contained in the Note (as defined in Recital A below), this Guaranty shall control. All capitalized terms not otherwise defined in this Guaranty will have the same meanings ascribed to such terms in the Note.

### Recitals

A. As an inducement for Seller to provide debt to [Franchisee], a [State] [corporation/limited liability company], ("Franchisee"), and to perform Seller's obligations under the Promissory Note and Security Agreement dated [Start Date] ("Note") in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_), Guarantor has agreed to jointly and severally guarantee the obligations of Franchisee under the Note.

B. Franchisee and [applicable franchisor name]MTY Franchising USA, Inc. signed a Franchise Agreement, as amended, with respect to ~~Built Custom Burgers~~[Brand] Store No. \_\_\_\_\_ ("Franchise") dated [Franchise Agreement Date] ("Franchise Agreement").

C. Guarantor is an individual who owns, directly or indirectly, a five percent (5%) or greater equity interest in the Franchise, has agreed to guarantee the Franchisee's obligations pursuant to the Franchise Agreement and Note, or is Franchisee's spouse.

NOW THEREFORE, in consideration of the foregoing, the execution and delivery of the Note by Seller, and the performance of Seller's obligations under the Note, Guarantor agrees, for the benefit of Seller and its affiliates as follows:

### Agreement

1. Guarantor unconditionally guarantees and promises to pay to Seller and/or its affiliates and to perform, for the benefit of Seller and/or its affiliates, on demand, any and all obligations and liabilities of Franchisee in connection with, with respect to, or arising out of, the Note and all Schedules entered into in connection therewith ("Obligations").

2. This is a guaranty of payment and not of collection. This Guaranty will remain in full force and effect until all amounts payable by Guarantor have been validly, finally and irrevocably paid-in-full and all Obligations will have been validly, finally and irrevocably satisfied or performed-in-full.

3. Guarantor's Obligations under this Guaranty are joint and several and are independent of the obligations of Franchisee. A separate action or actions may be brought and prosecuted against Guarantor regardless of whether an action is brought against the Franchisee or whether the Franchisee (or, if more than one Guarantor, the other Guarantors) is joined in any such action. Guarantor waives the benefit of any statute of limitations affecting Guarantor's liability under this Guaranty or the enforcement of this Guaranty. Guarantor waives its rights under A.R.S. Section 12-1641, *et seq.* and Rule 17(f) of the Arizona Rules of Civil Procedure for the Superior Courts of Arizona, which set forth certain rights and obligations among guarantors, debtors and creditors, if applicable, including the right to require Seller to bring an action against the Franchisee prior to enforcing its rights under this Guaranty. Guarantor waives any right to require Seller to proceed against or exhaust any security interest held in the property of Franchisee or to pursue any other remedies that Seller may have. Guarantor waives all requirements as to presentment, demand for performance, notice of non-performance, protest,

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## ARTICLE 1. GRANT OF FRANCHISE; TERM; SYSTEM STANDARDS

### 1.1 Franchise Grant.

We hereby grant to you a *Built Custom Burgers* franchise that includes the right to use the System (~~“Franchised Business”~~) as provided in this Agreement, at the following location (“Location”):

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

City/State/Zip Code: \_\_\_\_\_

Additional Location Information  
(if applicable) \_\_\_\_\_

The *Built Custom Burgers* franchise at the Location will be collectively herein referred to as the “Franchised Business”.

### 1.2 Location of the Franchised Business; No Exclusive Territory or Other Rights.

You must operate the Franchised Business only from the Location, including any catering services of *Built Custom Burgers* menu items you provide. You acknowledge that the *Built Custom Burgers* franchise granted under this Agreement is non-exclusive, that we are not granting you any territorial protection or any other exclusive rights, and that we, directly or through one (1) or more affiliates, reserve the right in our sole discretion, and without compensating you or seeking your prior approval: (i) to establish, and grant to other franchisees or licensees the right to establish, a *Built Custom Burgers* restaurant or any other business using the Proprietary Marks, the *Built Custom Burgers* System or any variation thereof, in any location other than the approved Location (including locations in the immediate vicinity of your Location), on any terms and conditions that we deem appropriate; (ii) to establish, and grant to other franchisees or licensees the right to establish, any restaurant concept other than *Built Custom Burgers* in any location on any terms and conditions that we deem appropriate (including locations in the immediate vicinity of the Location); (iii) to sell products identified by the Proprietary Marks or other trademarks, service marks or commercial symbols in any location through any distribution channels, including grocery stores, convenience stores, supermarkets, club stores, vending machines, delivery services and restaurants other than *Built Custom Burgers* restaurants; and (iv) to take any other action that we are not expressly prohibited from taking under this Agreement.

We hereby grant to you during the term of this Agreement, a non-exclusive right and license to operate a single restaurant at the Location only, according to the System Standards and subject to the terms, conditions and restrictions contained in this Agreement. This Agreement is limited to the operation of one traditional restaurant, unless otherwise amended, and does not grant you the right to buy, own or operate additional restaurants.

Except as expressly limited in this Agreement, we (for ourselves and our affiliates and designees) retain all rights with respect to all Proprietary Marks and the sale of *Built Custom Burgers* products anywhere in the world with no compensation or liability to you, including the right to:

The operation and maintenance of your Franchised Business according to the System Standards are essential to the well-being and vitality of the System and to preserve the goodwill of the Proprietary Marks for us and for all other franchisees operating under the System. It is critical to the *Built Custom Burgers* System for all restaurants operating under the *Built Custom Burgers* System to present a uniform and professional image to *Built Custom Burgers* customers regardless of which location the customer visits. Any information regarding the operation of the Franchised Business will be considered a mandatory System Standard, unless it is clear from the express language of our communication that the information is merely optional or is intended by us as a suggestion, rather than a requirement.

You agree that System Standards constitute binding provisions of this Agreement as if they were an integral part of this Agreement.

## **ARTICLE 2. SELECTION OF LOCATION; CONSTRUCTION AND RELOCATION**

### **2.1 Location Selection Procedures.**

You must select a Location that satisfies our minimum site requirements (such confirmation will be provided to you by us in writing), for your Franchised Business within ~~one~~ nine (94) months~~year~~ from the Effective Date. If you cannot secure an acceptable Location for your Franchised Business within ~~one~~ nine (94) months~~year~~ from the Effective Date, then we may terminate this Agreement by giving you notice to that effect. You are ultimately responsible for the selection of the Location. We will not have any liability to you with respect to your selection of the Location, any assistance we provide you in making your selection, our recommendation of any location or a third party to assist you in selecting a location, or our allowing you to move forward on any location. You agree that your selection of the Location will be based on your own independent investigation of the suitability of the Location. If a Site Review Report is requested by Franchisee and upon receipt of all items requested by Franchisor from Franchisee, Franchisor will have 30 days to visit and/or review the site proposed by Franchisee and prepare a Site Review Report that will provide Franchisee with certain site information relevant to assessing whether the proposed site is suitable for development of a Restaurant. The Site Review Report represents Franchisor opinion based on its past experience and is offered for consideration and independent evaluation by Franchisee and its advisors. It is not a representation of fact, or guaranty of any type and is provided only on the express understanding, as stated herein, that Franchisor has no liability of any kind whatsoever with respect to the information provided. Franchisee agrees and acknowledges that the Site Review Report may provide an estimate of revenues for the site selected by Franchisee but that there is no representation, warranty, or guaranty that Franchisee's Restaurant will attain these estimated revenues if Franchisee selects this site as the Franchised Location or that the estimate is based on any validated or substantiated methodology. Franchisee will pay Franchisor the then-current fee for the Site Review Report after Franchisor issues a "no-brand-standards-objection" letter for the site. The fee for a Site Review Report is currently \$1,000 to \$5,000, but this fee may be increased by Franchisor at any time. Franchisee will not purchase or lease a proposed site until Franchisor has provided Franchisee with a no-brand-standards-objection letter for that proposed site

a. Complete a food safety training program at your sole cost and expense. We will accept the certificate for the required program through your local county or state health department or any other nationally recognized food safety program. You must provide us with a copy of your certificate prior to commencing training;

b. Successfully complete the Training Program described in *Section 4.1*;

c. Purchase, lease or otherwise acquire from the list of approved sources provided by us all the signage, supplies, equipment, fixtures, inventory and other items necessary to operate the *Built Custom Burgers* Franchised Business; and

d. Obtain liability insurance in accordance with the requirements described in *Section 9.5* and provide to us evidence that such insurance has been obtained.

Prior to opening the Franchised Business, you must notify us that you have satisfied all requirements to begin operations, and provide us with such documents as we may reasonably request that show your compliance with all such requirements. Upon receipt of our acknowledgment that such requirements have been satisfied, you will have five (5) days to begin operations of your *Built Custom Burgers* restaurant. If you do not begin operations of your Franchised Business at the confirmed Location before the expiration of the one (1) year period from the Effective Date, then we may terminate this Agreement by giving you notice to that effect.

### **3.2 Supplies and Promotional Materials; Rollouts.**

You agree to sell only those menu items, products and services authorized under the terms of this Agreement and as specified in the Confidential Manual, and you shall use only supplies and ingredients in making those menu items that are in compliance with the standards as set forth in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future. You shall purchase all such services, supplies and ingredients only from approved vendors and utilize approved distributor(s) as specified in the documents provided by, or approved by, us as they presently exist or may exist in the future. In addition to approved vendors and approved distributor(s), we may, in our sole discretion, require you to purchase certain products or services through designated purchasing channels, programs, platforms, or contractual arrangements specified by us. You must purchase promotional materials containing the Proprietary Marks, including stationery, business cards, promotional and advertising materials and similar items, from suppliers approved by us, except that we must first approve all such promotional and advertising materials before you use them, and all such printed materials containing any of the Proprietary Marks shall be accompanied by the words "INDEPENDENTLY OWNED AND OPERATED." Additionally, during the Term, you agree to participate in any Rollout of new products and suppliers, as defined in *Section 9.3*.

### **3.3 Fixtures, Furnishings, and Equipment.**

Unless otherwise approved by us in writing, you will: (1) acquire, repair and replace, as necessary, and maintain in a first class condition throughout the Term, fixtures, furnishings, and equipment to be used in the operation of your Franchised Business that is in accordance with the System Standards, specifications set forth by us in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future, and with applicable laws including, without limitation, including the ADA; and (2) procure the

The remaining positions may be filled by a natural person with an ownership interest in or management responsibility for the Franchised Business. The training program is made up of the “In-Store Training,” which is approximately one hundred and twenty (120) hours, and “New Owner Training,” which is approximately forty (40) hours (collectively, “Training Program”). You will be solely responsible for all transportation costs, food, lodging and other personal expenses incurred by you and your employees in connection with the Training Program. The New Owner Training will be conducted either online or in person at our sole discretion. If the New Owner Training is conducted in person, it will be at the Franchisor training and education center in Scottsdale, Arizona or at such other location as we may designate at our sole discretion and the In-Store Training will be conducted at a training store in Arizona or such other location as we may designate at our sole discretion. You acknowledge that adequate knowledge regarding the operation of the Franchised Business is essential to the growth of your franchise and to the promotion of the System. Furthermore, Franchisor has the right to require Franchisee and/or its manager(s) to attend additional training and pay the Additional Training Fee (as defined below), as provided for in this *Section 4.1* and *Section 5.10*, in the event Franchisee is not operating the Franchised Business pursuant to Franchisor’s Systems Standards.

#### **4.2 Employee Training.**

You acknowledge that the employees of your *Built Custom Burgers* Franchised Business are an integral and important part of the Franchised Business, as they will have substantial contact with customers. You alone are responsible, and acknowledge that we have no direct or indirect control and no right or authority, for the hiring, firing, training, supervising, setting the terms and conditions of employment (including employee tasks and work schedules), compensation of your employees, or maintaining employment records, for the safety of your employees and for your employees’ compliance with the System Standards. The System Standards are in place to protect our interests in the System and not for exercising any control over you, your employees or your Franchised Business. You must ensure that your employees who have direct interaction with the public are able to speak and read English and any other language that may be required to adequately meet the public needs in your Franchised Business.

#### **4.3 Additional Programs; Continuing Assistance.**

We will provide up to three (3) of our representatives to come to your restaurant during opening week for up to twelve (12) days, at our expense, to work with you or your manager on your grand opening, and on operating and marketing your restaurant. You will pay us for all Travel Expenses and the prorated Salaries and Benefits (based on the number of days each Opening Team member has worked at Franchisee’s Restaurant) for each member of the Opening Team. Two (2) weeks prior to the date that the Opening Team arrives at the Restaurant, you will pay to us 50% of the estimated Travel Expenses (as determined by us) and 50% of the prorated Salaries and Benefits for the Opening Team. Upon completion of the Opening Team’s assistance, we will send you an invoice for the actual amount of remaining Travel Expenses and prorated Salaries and Benefits still owed by you. You will pay this invoice within thirty (30) days after receipt. If this Agreement is for the second or a subsequent Restaurant to be opened by Franchisee, then you will be responsible for furnishing the Opening Team to assist with the opening of the Restaurant. The number of Opening Team members (if any) provided by us for the opening of the second or a subsequent Restaurant will be determined by us, in our sole discretion, and if applicable, you will pay us the then-current Per Diem Training Fee for each Opening Team member who provides opening assistance at the Restaurant, and will reimburse us for the Travel Expenses and Salaries and Benefits of the

Opening Team members provided by us for the opening of your Restaurant. You will pay the amounts owed to us pursuant to this provision within ten (10) days after receipt of an invoice indicating the amount owed. We may, in the future, request that Trainees participate in refresher or additional training programs. We may also hold an annual conference to introduce new products, discuss sales and marketing techniques, personnel training, advertising programs, merchandising procedures and other subjects. You may be charged a registration fee for these programs and you will be solely responsible for the cost of transportation, food, lodging and other expenses incurred by Trainees at any such program. Attendance at these additional training programs and conferences is mandatory. They will be held in the metropolitan Phoenix, Arizona area, or at other locations in the United States chosen by us, at our sole discretion.

In addition to the initial training available under *Section 4.1*, we shall provide such periodic evaluations or inspections as we deem appropriate, utilizing our field representatives who may visit the Franchised Business from time to time. The frequency and duration of such visits to a Franchised Business by our representatives shall be in our sole discretion. Any such evaluation or inspection is not intended to exercise any control over your employees or the daily operation of your Franchised Business. In addition, we will be available on an ongoing basis at our offices for consultation and guidance with respect to the operation and management of the Franchised Business. In addition to the Confidential Manual, we may, but are not required to, from time to time provide you with additional materials relating to the Franchised Business.

#### **4.4 Area Representatives.**

We may retain the services of an independent third-party area representative ("Area Representative") to represent us in the area in which the Franchised Business is located and perform some or all of the services we provide under this Agreement. The services the Area Representative may perform could include: (i) assistance in location selection and evaluating and confirming that the Location meets our minimum site requirements; (ii) advice and guidance regarding lease negotiations; (iii) assistance in opening new *Built Custom Burgers* locations; (iv) assistance with training on the approved POS System (as defined in *Section 4.6a.*); (v) assistance with marketing advice; (vi) periodic Quality Service Cleanliness and Experience ("QSCE") evaluations; (vii) assistance with collection of the various sums due to us from *Built Custom Burgers* franchisees; and (viii) coordination with other *Built Custom Burgers* franchisees in your area and general supervision and monitoring of your Franchised Business on our behalf. You agree in advance to our delegation to an Area Representative of some or all of our obligations, and assignment to an Area Representative of some or all of our rights under this Agreement. You agree that we may require you to submit to an Area Representative any reports you are required to submit to us. Upon our request, you will provide the Area Representative with access, inspection and audit rights to the same extent we have those rights under this Agreement. You are not a third-party beneficiary of any agreement between us and any Area Representative. If we have designated an Area Representative for your Franchised Business as of the Effective Date, the name and contact information of the Area Representative is shown in *Section 17.3h*. We reserve the right in our sole discretion to remove any Area Representative in your area at any time and to appoint any other Area Representative for your area. We have no obligation to appoint an Area Representative in the area in which your Franchised Business is located, and we have no obligation to appoint a new Area Representative after we have removed an Area Representative.

You acknowledge that Area Representatives and their owners and employees may not contractually bind us without our express written authorization. You further acknowledge no Area Representative has the authority to: (i) enter into agreements or execute any agreements

on our behalf; or (ii) bind us in any way without our prior written consent. Unless expressly authorized and agreed to by us in writing, we disavow any agreements, whether verbal or written, entered into by an Area Representative that in any way attempts to bind us. In any litigation or arbitration proceeding, you agree to waive any claim or defense that an Area Representative is our express or implied agent and such an assertion by you constitutes a material default under this Agreement.

#### **4.5 Confidential Manual.**

To protect the reputation and goodwill of the System and to maintain the uniform standards of operation under the Proprietary Marks, you must conduct your business in accordance with our Confidential Manual. The Confidential Manual is confidential and remains our property.

The Operations Manual is available to Franchisee via the franchisee portal at: <https://portal.kahalamgmt.com>. In the event Franchisee desires to receive a hard copy of the Operations Manual, then Franchisee shall submit such request in writing to [kahala.training@mtygroup.com](mailto:kahala.training@mtygroup.com) or [training@kahalamgmt.com](mailto:training@kahalamgmt.com). Upon such request, a hard copy of the Operations Manual will be mailed to Franchisee via regular mail within approximately forty-five (45) days thereafter.

So that you may benefit from new knowledge gained by us as to improved techniques in the operation of the Franchised Business, we may from time to time revise, amend, restate or supplement the content of the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future. You will at all times ensure that your copy of the Confidential Manual is kept current and up to date. In the event of a dispute regarding any of the content of the Confidential Manual, the master copies maintained by us at our corporate office will control.

#### **4.6 Computer Systems; Debit and Credit Card Processing.**

a. Prior to the opening of your Franchised Business, you will be required to acquire, to maintain, and to exclusively use an approved cash register/computer system ("POS System") during the operation of the Franchised Business. You and your employees must complete training for the POS System as we require, and you will be required to use the POS System to produce sales reports, keep inventory control and post sales tax, refunds, credits and allowances and submit that information to us immediately upon our request. You are required to obtain high-speed/always-on internet connection service for your POS System. If high-speed/always-on is not available in your area, dial-up Internet access may be used until high-speed/always-on service becomes available in your area. The POS System must be configured so that we will have remote access to the information and data stored in the POS System, which may include inventory information. This access will allow us to exchange/collect data and other information on such bases as we will communicate to you from time to time. You will be required to maintain the POS System in good working order at all times, and to upgrade or update the POS System during the Term as we may require from time to time. It will be your responsibility to enter into contracts for the maintenance, upgrades and updates to the POS System with an approved supplier of such services identified by us on the list of approved vendors and distributors or other notification to you from us advising of suppliers for your market area. You shall also be required to own a personal computer or similar device with access to the Internet that allows you to report your Gross Sales (as defined in *Section 5.2*) online, send and receive e-mails with us, and receive online orders. If implemented by us, all *Built Custom*

approval upon the supplier's failure to meet any of our then-current minimum System Standards. We may also require that samples from the proposed supplier be delivered, at no charge to us, either to us or to our designee for testing. A charge not to exceed the reasonable cost and expense of the inspection and the actual cost and expense of the test must be paid to us either by you or by the proposed supplier. We will notify you within sixty (60) days after your request of our approval or disapproval of the proposed product or supplier, with such determination to be made at our sole discretion. If you do not receive a written notification from us of our approval or disapproval, then the request will be deemed automatically denied after the expiration of such sixty (60) day period. You acknowledge and agree that our approval of any item or supplier of equipment, supplies or inventory not previously approved by us will not, in and of itself, make the supplier of that item an approved supplier for other *Built Custom Burgers* franchise owners in the System. We may, in our sole discretion, at any time and from time to time, re-inspect the facilities and products of any approved supplier and revoke its approval upon the supplier's failure to meet any of our then-current System Standards. If you receive a notice of revocation from us, you must immediately stop selling disapproved products and purchasing from the disapproved supplier.

c. We will provide to you a list of all recommended and required items of equipment, fixtures, supplies, smallwares and interior decor. This list will be included in the System Standards.

d. At any time and from time to time, we may in our sole option engage in new product rollouts to add to or change the menu items offered for sale in the Franchised Business and the ingredients or supplier of ingredients utilized in the preparation of the menu items sold in the Franchised Business ("Rollout"). If we engage in a Rollout, you shall participate in the changes that are the subject of such Rollout, including offering the new menu items, changing the menu items, changing to the new supplier of the ingredients utilized in the preparation of the menu items, and changing to the new ingredients utilized in the preparation of the menu items. If we engage in a Rollout, we will notify you of the details of the Rollout and provide you sixty (60) days from said notification to take the applicable actions required by the Rollout.

#### **9.4 Compliance with Legal Requirements and Good Business Practices.**

You must, at your sole expense, operate the Franchised Business in full compliance with all applicable Federal, state and local statutes, laws, ordinances and regulations, including, without limitation, health and safety regulations, food and drug laws, disability laws, labor and employment laws and data privacy laws, as may be amended, supplemented or enacted from time to time. You must pay all costs and expenses incurred by, and in the conduct of, the Franchised Business, including all rent, salaries, taxes (excluding our income taxes), disbursements, license or permit fees, insurance premiums, traveling expenses and any other business expenses when they become due. We may collect from you, or require you to reimburse us for, any taxes, mandatory industry-funded compliance fees, regulatory fees, assessments, surcharges, or similar charges imposed or assessed by any governmental authority, quasi-governmental authority, or industry body, whether assessed against you or against us, as a result of your operation of the Franchised Business or the license of our intangible property in the jurisdiction where the Franchised Business is located, to the extent permitted by law. If you receive any demand, action, suit or proceeding, or the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality relating to your Franchised Business, you must immediately notify us, and in no event, later than three (3) days after your receipt. Any such notice must be accompanied by a copy of the demand, complaint, order, writ, injunction, award, decree or other similar document.

us under the standards set forth in this Agreement, all rights licensed to you under this Agreement will terminate immediately and automatically revert to us. We shall have the right and option, in our sole discretion, exercisable upon such termination, to purchase all removable furniture, fixtures, signs, equipment and other chattels, but not leasehold improvements, at a price to be agreed upon by the parties or, if no agreement as to price is reached by the parties, at such price as may be determined by a qualified appraiser, approved by both parties, such approval not to be unreasonably withheld. We shall give notice of our intent to exercise the option no later than twenty-one (21) days prior to termination.

## **12.5 Assignment by Franchisor.**

You agree and affirm that we may, without your prior consent, sell our business, our assets, or our System, in whole or in part, to a third-party; may issue a public offering of our securities; may engage in private placement of some or all of our securities; may merge with or acquire other corporations, or be acquired by another corporation; and may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring. You further agree and affirm that we have the right, now and in the future, without your prior consent, to purchase, merge, acquire or affiliate with an existing competitive or non-competitive franchise network, chain or any other business regardless of the location of such franchise network, chain or business, which you acknowledge may be proximate to your Franchised Business, and to operate, franchise or license such franchise networks, chains or businesses operating under the Proprietary Marks or any other marks following our purchase, merger, acquisition or affiliation. With regard to any of the above sales, assignments and dispositions, you expressly and specifically waive any claims, demands or damages against us arising from or related to the loss of your rights to use the System as authorized under this Agreement.

This Agreement will inure to the benefit of our successors and assigns. In conjunction with one (1) or more of the transactions contemplated above, or as otherwise determined by us, we have the right to assign our rights and obligations under this Agreement to any person or entity, without your prior consent. Upon such assignment, we will be relieved of all obligations or liabilities then existing or thereafter able to be asserted under this Agreement.

## **12.6 Restrictions on Security Interests and Subfranchising.**

Except as otherwise set forth in this *Section 12.6*, you shall not have any rights to pledge, encumber, hypothecate or otherwise give any third-party a security interest in this Agreement in any manner whatsoever, nor subfranchise or otherwise transfer, or attempt to subfranchise or transfer the Franchised Business, in whole or in part, so long as it is operated as the Franchised Business, without our express prior written permission, which permission may be withheld for any reason whatsoever in our sole discretion. Notwithstanding anything contained herein to the contrary, you shall have the right to pledge your accounts receivable, net of the Royalty Fee, Advertising Fee, and rent, without our prior written consent for the sole purpose of obtaining financing for the operation of the Franchised Business, provided you are in full compliance with this Agreement and any other agreement, arrangement or understanding with us.

## **ARTICLE 13. RENEWAL**

Subject to the terms and conditions described below, you will have the right to renew your license to operate the Franchised Business for an additional term of five (5) years. In the event you desire to renew your license, you must give us notice to that effect at least ~~one~~two

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## ARTICLE 1. GRANT OF FRANCHISE; TERM; SYSTEM STANDARDS

### 1.1 Franchise Grant.

We hereby grant to you a *Built Custom Burgers* franchise that includes the right to use the System (~~“Franchised Business”~~) as provided in this Agreement, at the following location (“Location”):

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

City/State/Zip Code: \_\_\_\_\_

Additional Location Information  
(if applicable) \_\_\_\_\_

The *Built Custom Burgers* franchise at the Location will be collectively herein referred to as the “Franchised Business”.

### 1.2 Location of the Franchised Business; No Exclusive Territory or Other Rights.

You must operate the Franchised Business only from the Location, including any catering services of *Built Custom Burgers* menu items you provide. You acknowledge that the *Built Custom Burgers* franchise granted under this Agreement is non-exclusive, that we are not granting you any territorial protection or any other exclusive rights, and that we, directly or through one (1) or more affiliates, reserve the right in our sole discretion, and without compensating you or seeking your prior approval: (i) to establish, and grant to other franchisees or licensees the right to establish, a *Built Custom Burgers* restaurant or any other business using the Proprietary Marks, the *Built Custom Burgers* System or any variation thereof, in any location other than the approved Location (including locations in the immediate vicinity of your Location), on any terms and conditions that we deem appropriate; (ii) to establish, and grant to other franchisees or licensees the right to establish, any restaurant concept other than *Built Custom Burgers* in any location on any terms and conditions that we deem appropriate (including locations in the immediate vicinity of the Location); (iii) to sell products identified by the Proprietary Marks or other trademarks, service marks or commercial symbols in any location through any distribution channels, including grocery stores, convenience stores, supermarkets, club stores, vending machines, delivery services and restaurants other than *Built Custom Burgers* restaurants; and (iv) to take any other action that we are not expressly prohibited from taking under this Agreement.

We hereby grant to you during the term of this Agreement, a non-exclusive right and license to operate a single restaurant at the Location only, according to the System Standards and subject to the terms, conditions and restrictions contained in this Agreement. This Agreement is limited to the operation of one traditional restaurant, unless otherwise amended, and does not grant you the right to buy, own or operate additional restaurants.

Except as expressly limited in this Agreement, we (for ourselves and our affiliates and designees) retain all rights with respect to all Proprietary Marks and the sale of *Built Custom Burgers* products anywhere in the world with no compensation or liability to you, including the right to:

## **ARTICLE 3. OPERATIONS**

**3.1** You agree to commence and continue operations at your *Built Custom Burgers* Franchised Business as of the Effective Date.

### **3.2 Supplies and Promotional Materials; Rollouts.**

You agree to sell only those menu items, products and services authorized under the terms of this Agreement and as specified in the Confidential Manual, and you shall use only supplies and ingredients in making those menu items that are in compliance with the standards as set forth in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future. You shall purchase all such services, supplies and ingredients only from approved vendors and utilize approved distributor(s) as specified in the documents provided by, or approved by, us as they presently exist or may exist in the future. In addition to approved vendors and approved distributor(s), we may, in our sole discretion, require you to purchase certain products or services through designated purchasing channels, programs, platforms, or contractual arrangements specified by us. You must purchase promotional materials containing the Proprietary Marks, including stationery, business cards, promotional and advertising materials and similar items, from suppliers approved by us, except that we must first approve all such promotional and advertising materials before you use them, and all such printed materials containing any of the Proprietary Marks shall be accompanied by the words "INDEPENDENTLY OWNED AND OPERATED." Additionally, during the Term, you agree to participate in any Rollout of new products and suppliers, as defined in *Section 9.3*.

### **3.3 Fixtures, Furnishings, and Equipment.**

Unless otherwise approved by us in writing, you will: (1) acquire, repair and replace, as necessary, and maintain in a first class condition throughout the Term, fixtures, furnishings, and equipment to be used in the operation of your Franchised Business that are in accordance with the System Standards, specifications set forth by us in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future, and with applicable laws including, without limitation, the ADA; and (2) procure the fixtures, furnishings, and equipment from suppliers or vendors previously approved in writing by us.

### **3.4 Online Presence.**

You may not maintain a website, software application, an App (application), social media account (including, but not limited to, an account, group or page on Facebook®, Flickr®, Foursquare®, Google+®, Instagram®, LinkedIn®, Pinterest®, Snapchat®, Tumblr®, X/Twitter®, YouTube®, Vine®, VKontakte or Weibo®), or otherwise maintain a presence or advertise on the Internet or any other public computer network (individually and collectively, "Site") in connection with the Franchised Business without our prior written approval, which we may withhold in our sole discretion. If we grant you written approval, you agree to submit to us for approval before use, true and correct printouts, of all Site pages you propose to use in connection with the Franchised Business. You understand and agree that our right of approval of all such Site pages is necessitated by the fact that such Site pages will include and be inextricably linked with our Proprietary Marks. If we approve your use of a Site, you may only use Site pages that we have approved. Your Site must conform to all online presence requirements, policies and procedures per our System Standards. You agree to provide all information regarding your online presence that we require. If we grant approval for a Site, you may not use any of the Proprietary Marks on the Site except as we expressly permit. You may not post any of our

You agree in advance to our delegation to an Area Representative of some or all of our obligations, and assignment to an Area Representative of some or all of our rights under this Agreement. You agree that we may require you to submit to an Area Representative any reports you are required to submit to us. Upon our request, you will provide the Area Representative with access, inspection and audit rights to the same extent we have those rights under this Agreement. You are not a third-party beneficiary of any agreement between us and any Area Representative. If we have designated an Area Representative for your Franchised Business as of the Effective Date, the name and contact information of the Area Representative is shown in *Section 17.3h*. We reserve the right in our sole discretion to remove any Area Representative in your area at any time and to appoint any other Area Representative for your area. We have no obligation to appoint an Area Representative in the area in which your Franchised Business is located, and we have no obligation to appoint a new Area Representative after we have removed an Area Representative.

You acknowledge that Area Representatives and their owners and employees may not contractually bind us without our express written authorization. You further acknowledge no Area Representative has the authority to: (i) enter into agreements or execute any agreements on our behalf; or (ii) bind us in any way without our prior written consent. Unless expressly authorized and agreed to by us in writing, we disavow any agreements, whether verbal or written, entered into by an Area Representative that in any way attempts to bind us. In any litigation or arbitration proceeding, you agree to waive any claim or defense that an Area Representative is our express or implied agent and such an assertion by you constitutes a material default under this Agreement.

#### **4.5 Confidential Manual.**

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So that you may benefit from new knowledge gained by us as to improved techniques in the operation of the Franchised Business, we may from time to time revise, amend, restate or supplement the content of the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future. You will at all times ensure that your copy of the Confidential Manual is kept current and up to date. In the event of a dispute regarding any of the content of the Confidential Manual, the master copies maintained by us at our corporate office will control.

#### **4.6 Computer Systems; Debit and Credit Card Processing.**

a. You are required to acquire, as necessary, to maintain, and to exclusively use an approved cash register/computer system ("POS System") during the operation of the Franchised Business. You and your employees must complete training for the POS System as

changes that are the subject of such Rollout, including offering the new menu items, changing the menu items, changing to the new supplier of the ingredients utilized in the preparation of the menu items, and changing to the new ingredients utilized in the preparation of the menu items. If we engage in a Rollout, we will notify you of the details of the Rollout and provide you sixty (60) days from said notification to take the applicable actions required by the Rollout.

#### **9.4 Compliance with Legal Requirements and Good Business Practices.**

You must, at your sole expense, operate the Franchised Business in full compliance with all applicable Federal, state and local statutes, laws, ordinances and regulations, including without limitation health and safety regulations, food and drug laws, disability laws, labor and employment laws and data privacy laws, as may be amended, supplemented or enacted from time to time. You must pay all costs and expenses incurred by, and in the conduct of, the Franchised Business, including all rent, salaries, taxes (excluding our income taxes), disbursements, license or permit fees, insurance premiums, traveling expenses and any other business expenses when they become due. We may collect from you, or require you to reimburse us for, any taxes, mandatory industry-funded compliance fees, regulatory fees, assessments, surcharges, or similar charges imposed or assessed by any governmental authority, quasi-governmental authority, or industry body, whether assessed against you or against us, as a result of your operation of the Franchised Business or the license of our intangible property in the jurisdiction where the Franchised Business is located, to the extent permitted by law. If you receive any demand, action, suit or proceeding, or the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality relating to your Franchised Business, you must immediately notify us, and in no event, later than three (3) days after your receipt. Any such notice must be accompanied by a copy of the demand, complaint, order, writ, injunction, award, decree or other similar document. You must, in all dealings with your employees, customers, suppliers, the public and us adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. You agree to refrain from any business practice that may be injurious to the System or the goodwill associated with the Proprietary Marks.

#### **9.5 Maintenance of Insurance.**

At all times during the Term, you must maintain in full force at least the minimum types and amounts of insurance coverage that we require, under one (1) or more policies of insurance (each of which shall be primary coverage and shall not be contributory or secondary to any other coverage maintained by us) insured under the particular name of the Franchisee and for the particular address of the Franchised Business. You understand and acknowledge that you remain fully liable for any and all claims in connection with the operation of the Franchised Business arising during the Term of this Agreement, including without limitation, for any time period during which you may be in the process of obtaining a valid and complete certificate of insurance or is otherwise out of compliance. We do not waive and hereby reserve your obligations under this Agreement, including without limitation your insurance obligations.

Such insurance policies must be issued by insurers acceptable to us having an A.M. Best's financial strength rating of at minimum "A-VII," and grant us authority to obtain copies of your certificate of insurance directly from the carrier or your agent/broker. The particular requirements of our minimum insurance coverage will be made available to you throughout your term. Currently, the general liability insurance required by this Agreement must: (i) name MTY Franchising USA, Inc. as the certificate holder; (ii) name Kahala Franchising, L.L.C. and MTY Franchising USA, Inc. and their parents, subsidiaries, affiliates, officers, directors, and

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## ARTICLE 1. GRANT OF FRANCHISE; TERM; SYSTEM STANDARDS

### 1.1 Franchise Grant.

We hereby grant to you a *Built Custom Burgers* franchise that includes the right to use the System (~~“Franchised Business”~~) as provided in this Agreement, at the following location (“Location”):

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

City/State/Zip Code: \_\_\_\_\_

Additional Location Information  
(if applicable) \_\_\_\_\_

The *Built Custom Burgers* franchise at the Location will be collectively herein referred to as the “Franchised Business”.

### 1.2 Location of the Franchised Business; No Exclusive Territory or Other Rights.

You must operate the Franchised Business only from the Location, including any catering services of *Built Custom Burgers* menu items you provide. You acknowledge that the *Built Custom Burgers* franchise granted under this Agreement is non-exclusive, that we are not granting you any territorial protection or any other exclusive rights, and that we, directly or through one (1) or more affiliates, reserve the right in our sole discretion, and without compensating you or seeking your prior approval: (i) to establish, and grant to other franchisees or licensees the right to establish, a *Built Custom Burgers* restaurant or any other business using the Proprietary Marks, the *Built Custom Burgers* System or any variation thereof, in any location other than the approved Location (including locations in the immediate vicinity of your Location), on any terms and conditions that we deem appropriate; (ii) to establish, and grant to other franchisees or licensees the right to establish, any restaurant concept other than *Built Custom Burgers* in any location on any terms and conditions that we deem appropriate (including locations in the immediate vicinity of the Location); (iii) to sell products identified by the Proprietary Marks or other trademarks, service marks or commercial symbols in any location through any distribution channels, including grocery stores, convenience stores, supermarkets, club stores, vending machines, delivery services and restaurants other than *Built Custom Burgers* restaurants; and (iv) to take any other action that we are not expressly prohibited from taking under this Agreement.

We hereby grant to you during the term of this Agreement, a non-exclusive right and license to operate a single restaurant at the Location only, according to the System Standards and subject to the terms, conditions and restrictions contained in this Agreement. This Agreement is limited to the operation of one traditional restaurant, unless otherwise amended, and does not grant you the right to buy, own or operate additional restaurants.

Except as expressly limited in this Agreement, we (for ourselves and our affiliates and designees) retain all rights with respect to all Proprietary Marks and the sale of *Built Custom Burgers* products anywhere in the world with no compensation or liability to you, including the right to:

## **ARTICLE 2. SELECTION OF LOCATION; CONSTRUCTION AND RELOCATION**

### **2.1 Location Selection Procedures.**

You are ultimately responsible for the selection of the Location. We will not have any liability to you with respect to your selection of the Location, any assistance we provide you in making your selection, our recommendation of any location or a third party to assist you in selecting a location, or our allowing you to move forward on any location. You agree that your selection of the Location will be based on your own independent investigation of the suitability of the Location. If a Site Review Report is requested by Franchisee and upon receipt of all items requested by Franchisor from Franchisee, Franchisor will have 30 days to visit and/or review the site proposed by Franchisee and prepare a Site Review Report that will provide Franchisee with certain site information relevant to assessing whether the proposed site is suitable for development of a Restaurant. The Site Review Report represents Franchisor opinion based on its past experience and is offered for consideration and independent evaluation by Franchisee and its advisors. It is not a representation of fact, or guaranty of any type and is provided only on the express understanding, as stated herein, that Franchisor has no liability of any kind whatsoever with respect to the information provided. Franchisee agrees and acknowledges that the Site Review Report may provide an estimate of revenues for the site selected by Franchisee but that there is no representation, warranty, or guaranty that Franchisee's Restaurant will attain these estimated revenues if Franchisee selects this site as the Franchised Location or that the estimate is based on any validated or substantiated methodology. Franchisee will pay Franchisor the then-current fee for the Site Review Report after Franchisor issues a "no-brand-standards-objection" letter for the site. The fee for a Site Review Report is currently \$1,000 to \$5,000, but this fee may be increased by Franchisor at any time. Franchisee will not purchase or lease a proposed site until Franchisor has provided Franchisee with a no-brand-standards-objection letter for that proposed site

### **2.2 Lease and Purchase Approval.**

If you intend to lease the Location for your Franchised Business, the lease will be subject to our prior limited review and acknowledgment so that we can confirm that certain lease terms are incorporated into the lease. You must provide us, at least thirty (30) days prior to executing the lease, a copy of the lease and details relating to square footage, rent per square foot, the term of the lease, and either confirmation that such other terms as we reasonably require are incorporated into the lease or that you and the landlord agree to incorporate the lease addendum to lease agreement as an exhibit to the lease. You or your attorney shall be responsible for negotiating the terms of the lease, which shall be subject to our final limited review and acknowledgment. If you do not submit all of the required documents to us, we will not allow you to move forward with your lease. We have no liability to you regarding the terms or negotiations of the lease.

If, prior to executing the lease, you or your attorney request a full review of your lease, including any and all exhibits attached thereto, and we or our designated affiliate review your entire lease and exhibits and provide to you or your attorney its review of the entire lease and suggested changes to the lease ("Lease Review"), you must pay a Lease Review Fee (as defined in *Section 5.7*) to compensate for time and effort in reviewing the lease. The Lease Review is optional and only completed by us or our designated affiliate at your or your attorney's request. The Lease Review Fee is due only in the event that you or your attorney request us or

### **3.2 Supplies and Promotional Materials; Rollouts.**

You agree to sell only those menu items, products and services authorized under the terms of this Agreement and as specified in the Confidential Manual, and you shall use only supplies and ingredients in making those menu items that are in compliance with the standards as set forth in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future. You shall purchase all such services, supplies and ingredients only from approved vendors and utilize approved distributor(s) as specified in the documents provided by, or approved by, us as they presently exist or may exist in the future. In addition to approved vendors and approved distributor(s), we may, in our sole discretion, require you to purchase certain products or services through designated purchasing channels, programs, platforms, or contractual arrangements specified by us. You must purchase promotional materials containing the Proprietary Marks, including stationery, business cards, promotional and advertising materials and similar items, from suppliers approved by us, except that we must first approve all such promotional and advertising materials before you use them, and all such printed materials containing any of the Proprietary Marks shall be accompanied by the words "INDEPENDENTLY OWNED AND OPERATED." Additionally, during the Term, you agree to participate in any Rollout of new products and suppliers, as defined in *Section 9.3*.

### **3.3 Fixtures, Furnishings, and Equipment.**

Unless otherwise approved by us in writing, you will: (1) acquire, repair and replace, as necessary, and maintain in a first class condition throughout the Term, fixtures, furnishings, and equipment to be used in the operation of your Franchised Business that is in accordance with the System Standards, specifications set forth by us in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future, and with applicable laws including, without limitation, including the ADA; and (2) procure the fixtures, furnishings, and equipment from suppliers or vendors previously approved in writing by us.

### **3.4 Online Presence.**

You may not maintain a website, software application, an App (application), social media account (including, but not limited to, an account, group or page on Facebook®, Flickr®, Foursquare®, Google+®, Instagram®, LinkedIn®, Pinterest®, Snapchat®, Tumblr®, X/Twitter®, YouTube®, Vine®, VKontakte or Weibo®), or otherwise maintain a presence or advertise on the Internet or any other public computer network (individually and collectively, "Site") in connection with the Franchised Business without our prior written approval, which we may withhold in our sole discretion. If we grant you written approval, you agree to submit to us for approval before use, true and correct printouts, of all Site pages you propose to use in connection with the Franchised Business. You understand and agree that our right of approval of all such Site pages is necessitated by the fact that such Site pages will include and be inextricably linked with our Proprietary Marks. If we approve your use of a Site, you may only use Site pages that we have approved. Your Site must conform to all online presence requirements, policies and procedures per our System Standards. You agree to provide all information regarding your online presence that we require. If we grant approval for a Site, you may not use any of the Proprietary Marks on the Site except as we expressly permit. You may not post any of our proprietary, confidential or copyrighted material or information on the Site without our prior written permission. If you wish to modify your approved Site, all proposed modifications must also receive our prior written approval. You explicitly understand that you may not post on any Site (whether yours or someone else's) any material in which a third-party has any direct or

terms and conditions of employment (including employee tasks and work schedules), compensation of your employees, or maintaining employment records, for the safety of your employees and for your employees' compliance with the System Standards. The System Standards are in place to protect our interests in the System and not for exercising any control over you, your employees or your Franchised Business. You must ensure that your employees who have direct interaction with the public are able to speak and read English and any other language that may be required to adequately meet the public needs in your Franchised Business.

#### **4.3 Additional Programs; Continuing Assistance.**

We will provide up to three (3) of our representatives to come to your Franchised Business during opening week for up to twelve (12) days, at our expense, to work with you or your manager on operating your Franchised Business. You will pay us for all Travel Expenses and the prorated Salaries and Benefits (based on the number of days each Opening Team member has worked at Franchisee's Restaurant) for each member of the Opening Team. Two (2) weeks prior to the date that the Opening Team arrives at the Restaurant, you will pay to us 50% of the estimated Travel Expenses (as determined by us) and 50% of the prorated Salaries and Benefits for the Opening Team. Upon completion of the Opening Team's assistance, we will send you an invoice for the actual amount of remaining Travel Expenses and prorated Salaries and Benefits still owed by you. You will pay this invoice within thirty (30) days after receipt. If this Agreement is for the second or a subsequent Restaurant to be opened by Franchisee, then you will be responsible for furnishing the Opening Team to assist with the opening of the Restaurant. The number of Opening Team members (if any) provided by us for the opening of the second or a subsequent Restaurant will be determined by us, in our sole discretion, and if applicable, you will pay us the then-current Per Diem Training Fee for each Opening Team member who provides opening assistance at the Restaurant, and will reimburse us for the Travel Expenses and Salaries and Benefits of the Opening Team members provided by us for the opening of your Restaurant. You will pay the amounts owed to us pursuant to this provision within ten (10) days after receipt of an invoice indicating the amount owed. We may, in the future, request that Trainees participate in refresher or additional training programs. We may also hold an annual conference to introduce new products, discuss sales and marketing techniques, personnel training, advertising programs, merchandising procedures and other subjects. You may be charged a registration fee for these programs and you will be solely responsible for the cost of transportation, food, lodging and other expenses incurred by Trainees at any such program. Attendance at these additional training programs and conferences is mandatory. They will be held in the metropolitan Phoenix, Arizona area, or at other locations in the United States chosen by us, at our sole discretion.

In addition to the initial training available under *Section 4.1*, we shall provide such periodic evaluations or inspections as we deem appropriate, utilizing our field representatives who may visit the Franchised Business from time to time. The frequency and duration of such visits to a Franchised Business by our representatives shall be in our sole discretion. Any such evaluation or inspection is not intended to exercise any control over your employees or the daily operation of your Franchised Business. In addition, we will be available on an ongoing basis at our offices for consultation and guidance with respect to the operation and management of the Franchised Business. In addition to the Confidential Manual, we may, but are not required to, from time to time provide you with additional materials relating to the Franchised Business.

#### **4.4 Area Representatives.**

We may retain the services of an independent third-party area representative ("Area Representative") to represent us in the area in which the Franchised Business is located and perform some or all of the services we provide under this Agreement. The services the Area Representative may perform could include: (i) assistance in location selection and evaluating and confirming that the Location meets our minimum site requirements; (ii) advice and guidance regarding lease negotiations; (iii) assistance in opening new *Built Custom Burgers* locations; (iv) assistance with training on the approved POS System (as defined in *Section 4.6a.*); (v) assistance with marketing advice; (vi) periodic Quality Service Cleanliness and Experience ("QSCE") evaluations; (vii) assistance with collection of the various sums due to us from *Built Custom Burgers* franchisees; and (viii) coordination with other *Built Custom Burgers* franchisees in your area and general supervision and monitoring of your Franchised Business on our behalf. You agree in advance to our delegation to an Area Representative of some or all of our obligations, and assignment to an Area Representative of some or all of our rights under this Agreement. You agree that we may require you to submit to an Area Representative any reports you are required to submit to us. Upon our request, you will provide the Area Representative with access, inspection and audit rights to the same extent we have those rights under this Agreement. You are not a third-party beneficiary of any agreement between us and any Area Representative. If we have designated an Area Representative for your Franchised Business as of the Effective Date, the name and contact information of the Area Representative is shown in *Section 17.3h*. We reserve the right in our sole discretion to remove any Area Representative in your area at any time and to appoint any other Area Representative for your area. We have no obligation to appoint an Area Representative in the area in which your Franchised Business is located, and we have no obligation to appoint a new Area Representative after we have removed an Area Representative.

You acknowledge that Area Representatives and their owners and employees may not contractually bind us without our express written authorization. You further acknowledge no Area Representative has the authority to: (i) enter into agreements or execute any agreements on our behalf; or (ii) bind us in any way without our prior written consent. Unless expressly authorized and agreed to by us in writing, we disavow any agreements, whether verbal or written, entered into by an Area Representative that in any way attempts to bind us. In any litigation or arbitration proceeding, you agree to waive any claim or defense that an Area Representative is our express or implied agent and such an assertion by you constitutes a material default under this Agreement.

#### **4.5 Confidential Manual.**

To protect the reputation and goodwill of the System and to maintain the uniform standards of operation under the Proprietary Marks, you must conduct your business in accordance with our Confidential Manual. The Confidential Manual is confidential and remains our property.

The Operations Manual is available to Franchisee via the franchisee portal at: <https://portal.kahalamgmt.com>. In the event Franchisee desires to receive a hard copy of the Operations Manual, then Franchisee shall submit such request in writing to [kahala.training@mtygroup.com](mailto:kahala.training@mtygroup.com) ~~[training@kahalamgmt.com](mailto:training@kahalamgmt.com)~~. Upon such request, a hard copy of the Operations Manual will be mailed to Franchisee via regular mail within approximately forty-five (45) days thereafter.

b. If you desire to purchase or otherwise acquire any equipment, supplies or inventory items required by the System Standards but not previously approved by us, or from sources not previously approved by us, you must submit to us sufficient specifications, photographs, drawings and other information sufficient to allow us to determine whether such equipment, supplies or inventory items meet our System Standards. We may require that our representatives be allowed to inspect the facilities of the proposed supplier and revoke its approval upon the supplier's failure to meet any of our then-current minimum System Standards. We may also require that samples from the proposed supplier be delivered, at no charge to us, either to us or to our designee for testing. A charge not to exceed the reasonable cost and expense of the inspection and the actual cost and expense of the test must be paid to us either by you or by the proposed supplier. We will notify you within sixty (60) days after your request of our approval or disapproval of the proposed product or supplier, with such determination to be made at our sole discretion. If you do not receive a written notification from us of our approval or disapproval, then the request will be deemed automatically denied after the expiration of such sixty (60) day period. You acknowledge and agree that our approval of any item or supplier of equipment, supplies or inventory not previously approved by us will not, in and of itself, make the supplier of that item an approved supplier for other *Built Custom Burgers* franchise owners in the System. We may, in our sole discretion, at any time and from time to time, re-inspect the facilities and products of any approved supplier and revoke its approval upon the supplier's failure to meet any of our then-current System Standards. If you receive a notice of revocation from us, you must immediately stop selling disapproved products and purchasing from the disapproved supplier.

c. We will provide to you a list of all recommended and required items of equipment, fixtures, supplies, smallwares and interior decor. This list will be included in the System Standards.

d. At any time and from time to time, we may in our sole option engage in new product rollouts to add to or change the menu items offered for sale in the Franchised Business and the ingredients or supplier of ingredients utilized in the preparation of the menu items sold in the Franchised Business ("Rollout"). If we engage in a Rollout, you shall participate in the changes that are the subject of such Rollout, including offering the new menu items, changing the menu items, changing to the new supplier of the ingredients utilized in the preparation of the menu items, and changing to the new ingredients utilized in the preparation of the menu items. If we engage in a Rollout, we will notify you of the details of the Rollout and provide you sixty (60) days from said notification to take the applicable actions required by the Rollout.

#### **9.4 Compliance with Legal Requirements and Good Business Practices.**

You must, at your sole expense, operate the Franchised Business in full compliance with all applicable Federal, state and local statutes, laws, ordinances and regulations, including, without limitation, health and safety regulations, food and drug laws, disability laws, labor and employment laws and data privacy laws, as may be amended, supplemented or enacted from time to time. You must pay all costs and expenses incurred by, and in the conduct of, the Franchised Business, including all rent, salaries, taxes (excluding our income taxes), disbursements, license or permit fees, insurance premiums, traveling expenses and any other business expenses when they become due. We may collect from you, or require you to reimburse us for, any taxes, mandatory industry-funded compliance fees, regulatory fees, assessments, surcharges, or similar charges imposed or assessed by any governmental authority, quasi-governmental authority, or industry body, whether assessed against you or against us, as a result of your operation of the Franchised Business or the license of our

intangible property in the jurisdiction where the Franchised Business is located, to the extent permitted by law. If you receive any demand, action, suit or proceeding, or the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality relating to your Franchised Business, you must immediately notify us, and in no event, later than three (3) days after your receipt. Any such notice must be accompanied by a copy of the demand, complaint, order, writ, injunction, award, decree or other similar document. You must, in all dealings with your employees, customers, suppliers, the public and us adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. You agree to refrain from any business practice that may be injurious to the System or the goodwill associated with the Proprietary Marks.

## **9.5 Maintenance of Insurance.**

At all times during the Term, you must maintain in full force and effect at least the minimum types and amounts of insurance coverage that we require, under one (1) or more policies of insurance (each of which shall be primary coverage and shall not be contributory or secondary to any other coverage maintained by us), insured under the particular name of the Franchisee and for the particular address of the Franchised Business. You understand and acknowledge that you remain fully liable for any and all claims in connection with the operation of the Franchised Business arising during the Term of this Agreement, including without limitation, for any time period during which you may be in the process of obtaining a valid and complete certificate of insurance or is otherwise out of compliance. We do not waive and hereby reserve your obligations under this Agreement, including without limitation your insurance obligations.

Such insurance policies must be issued by insurers acceptable to us having an A.M. Best's financial strength rating of at minimum "A-VII," and grant us authority to obtain copies of your certificate of insurance directly from the carrier or your agent/broker. The particular requirements of our minimum insurance coverage will be made available to you throughout your term. Currently, the general liability insurance required by this Agreement must: (i) name MTY Franchising USA, Inc. as the certificate holder; (ii) name Kahala Franchising, L.L.C. and MTY Franchising USA, Inc. and their parents, subsidiaries, affiliates, officers, directors, and employees as additional insureds; (iii) contain a waiver by the insurance carrier of all subrogation rights against us and our affiliates and our affiliates' respective officers, directors and employees for casualty losses; (iv) indicate the address of the Franchised Business being insured; and (v) provide that we will receive a copy, via an endorsement, thirty (30) days' prior notice of cancellation of any such policy. Additional minimum insurance coverage requirements (subject to increase or otherwise change in our sole discretion) are as follows:

| TYPE OF COVERAGE                      | LIMITS/SPECIFICATIONS                                                                              |
|---------------------------------------|----------------------------------------------------------------------------------------------------|
| General Liability                     | \$1,000,000 Bodily Injury/Property Damage Per Occurrence / \$2,000,000 Aggregate                   |
| Building Improvements and Betterments | 100% of Full Replacement Cost – No Coinsurance (minimum of \$100,000)                              |
| Business Personal Property            | 100% of Full Replacement Cost – No Coinsurance – Special Form or equivalent (minimum of \$100,000) |

price to be agreed upon by the parties or, if no agreement as to price is reached by the parties, at such price as may be determined by a qualified appraiser, approved by both parties, such approval not to be unreasonably withheld. We shall give notice of our intent to exercise the option no later than twenty-one (21) days prior to termination.

## **12.5 Assignment by Franchisor.**

You agree and affirm that we may, without your prior consent, sell our business, our assets, or our System, in whole or in part, to a third-party; may issue a public offering of our securities; may engage in private placement of some or all of our securities; may merge with or acquire other corporations, or be acquired by another corporation; and may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring. You further agree and affirm that we have the right, now and in the future, without your prior consent, to purchase, merge, acquire or affiliate with an existing competitive or non-competitive franchise network, chain or any other business regardless of the location of such franchise network, chain or business, which you acknowledge may be proximate to your Franchised Business, and to operate, franchise or license such franchise networks, chains or businesses operating under the Proprietary Marks or any other marks following our purchase, merger, acquisition or affiliation. With regard to any of the above sales, assignments and dispositions, you expressly and specifically waive any claims, demands or damages against us arising from or related to the loss of your rights to use the System as authorized under this Agreement.

This Agreement will inure to the benefit of our successors and assigns. In conjunction with one (1) or more of the transactions contemplated above, or as otherwise determined by us, we have the right to assign our rights and obligations under this Agreement to any person or entity, without your prior consent. Upon such assignment, we will be relieved of all obligations or liabilities then existing or thereafter able to be asserted under this Agreement.

## **12.6 Restrictions on Security Interests and Subfranchising.**

Except as otherwise set forth in this *Section 12.6*, you shall not have any rights to pledge, encumber, hypothecate or otherwise give any third-party a security interest in this Agreement in any manner whatsoever, nor subfranchise or otherwise transfer, or attempt to subfranchise or transfer the Franchised Business, in whole or in part, so long as it is operated as the Franchised Business, without our express prior written permission, which permission may be withheld for any reason whatsoever in our sole discretion. Notwithstanding anything contained herein to the contrary, you shall have the right to pledge your accounts receivable, net of the Royalty Fee, Advertising Fee, and rent, without our prior written consent for the sole purpose of obtaining financing for the operation of the Franchised Business, provided you are in full compliance with this Agreement and any other agreement, arrangement or understanding with us.

## **ARTICLE 13. RENEWAL**

Subject to the terms and conditions described below, you will have the right to renew your license to operate the Franchised Business for an additional term of five (5) years. In the event you desire to renew your license, you must give us notice to that effect at least ~~one~~two hundred ~~twenty~~ten (~~120~~210) days prior to the expiration date of the Term. In addition to giving the notice of renewal referred to above in a timely manner, in order to have the right to renew the license to operate the Franchised Business for an additional term, you must also meet each of the following requirements:

## GUARANTY OF FRANCHISE AGREEMENT

This GUARANTY OF FRANCHISE AGREEMENT ("Guaranty") is entered into as of \_\_\_\_\_ by each of the undersigned ([individually and collectively, ]"Guarantor") in favor of MTY FRANCHISING USA, INC., a Tennessee corporation ("Franchisor"). To the extent this Guaranty contains terms and conditions that differ from those contained in the Franchise Agreement (as defined in Recital A below), this Guaranty shall control. All capitalized terms not otherwise defined in this Guaranty will have the same meanings ascribed to such terms in the Franchise Agreement.

### Recitals

A. Franchisor and \_\_\_\_\_, a(n) \_\_\_\_\_ ("Franchisee") entered into a Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_, [ as amended,] (collectively "Franchise Agreement") for a *Built Custom Burgers* restaurant located at \_\_\_\_\_ ("Location" "Franchised Business").

B. Guarantor is a shareholder, partner, member, or other person or entity interested in effecting the grant or transfer of the Franchise Agreement.

C. Without this Guaranty, Franchisor cannot be assured that there are sufficient assets to operate the franchise or to protect Franchisor in the event of a default by Franchisee.

D. Franchisor is willing to enter into the Franchise Agreement only if Guarantor personally guarantees faithful performance of all the terms of the Franchise Agreement.

E. Guarantor acknowledges Guarantor received and read the Franchise Agreement and agrees to be bound to the obligations in this Guaranty with regard to the Franchise Agreement.

### Agreement

1. In consideration of the above recitals, Guarantor personally guarantees, for the benefit of Franchisor, its parent, subsidiaries, affiliates and successors and assigns, the prompt and complete performance of all the covenants and conditions contained in the foregoing Franchise Agreement.

2. This Guaranty is effective until all terms of the Franchise Agreement have been fully and completely performed by Franchisee and shall continue through the entire Term of the Franchise Agreement as may be renewed or extended. No release of Franchisee or discharge of Franchisee under bankruptcy law, or any other law, shall impair or effect the obligations of Guarantor to Franchisor hereunder.

3. Franchisor is not required to proceed first against the Franchisee, but may proceed first against the Guarantor alone or concurrent with proceeding against Franchisee. The obligations of Guarantor hereunder are absolute and unconditional.

4. Franchisee and Franchisor may from time to time alter or modify the Franchise Agreement between themselves, possibly changing or increasing the extent of Guarantor's obligation under this Guaranty. Guarantor consents to any and all modifications or amendments of the Franchise Agreement and the documents and Confidential Manual referred to in the Franchise Agreement, without requiring notice to Guarantor or Guarantor's consent.

5. Guarantor agrees specifically to be bound by the confidentiality requirements and the covenant against competition in the Franchise Agreement.

6. Guarantor waives notice of acceptance of this Guaranty and notice of non-performance or non-payment by Franchisee of any of its obligations or liabilities under the Franchise Agreement.

7. A default by Guarantor under this Guaranty will be deemed a default under all Franchise Agreements guaranteed by the Guarantor.

8. Guarantor agrees to pay all attorneys' fees, costs and expenses (including any and all Royalty Fees and Advertising Fees and associated interest on such amounts, that are determined to be owing to Franchisor due to underreporting by Franchisee) incurred by Franchisor in enforcing this Guaranty, whether or not suit or action is filed, and if suit or action is filed, then through trial and all appeals, and also in any proceedings or matter in Bankruptcy Court; Guarantor assumes all liability for all losses, costs, attorneys' fees, and expenses that Franchisor incurs as a result of a default by Franchisee, including those fees and expenses incurred in a bankruptcy proceeding involving Franchisee.

9. Guarantor hereby agrees that upon notice of default or upon an uncured default of the Franchise Agreement or any other agreement between Guarantor (or a legal entity thereof) and Franchisor or its affiliates, and with no prior notice, Guarantor consents to Franchisor's (or any of its affiliate's or third-party contractor's) acquisition and use of non-business consumer credit reports on Guarantor in order to evaluate as necessary the financial condition of Guarantor as principal, member, manager, franchisee, and/or guarantor in connection with the collection of monetary obligations as contemplated by the Franchise Agreement, this Guaranty, a promissory note, or any other agreements between Guarantor (or a legal entity thereof), and Franchisor or its affiliates. Guarantor as an individual or individuals hereby knowingly consent to the use of such credit reports consistent with the Federal Fair Credit Reporting Act as contained in 15 U.S.C. § 1681 et seq.

10. This Guaranty is personal to Guarantor and the obligations and duties imposed herein may not be delegated or assigned; provided, however, that this Guaranty shall be binding upon the successors, assigns, heirs, estate, trustee(s) and personal representative(s) of Guarantor. This Guaranty shall inure to the benefit of Franchisor, its affiliates, successors and assigns.

11. In the event that any one or more provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Guaranty shall be construed to bind Guarantor to the maximum extent permitted by law that is subsumed within the terms of such provision as though it were separately articulated herein.

12. This Guaranty shall be interpreted and construed under the laws of the ~~State of Arizona~~where the Franchised Business is located, which laws shall prevail in the event of any conflict of law.– Any appropriate state or federal court located in ~~Maricopa the County county of the~~and sState where the Franchised Business is located, ~~Arizona~~ has exclusive jurisdiction over any case or controversy arising under or in connection with this Agreement and is the proper forum in which to adjudicate the case or controversy, and the parties hereto irrevocably submit to the jurisdiction of any such court. THE PARTIES AGREE THAT ALL DISPUTES ADMITTED TO THE COURT PURSUANT TO THIS SECTION 12 SHALL BE TRIED TO THE COURT SITTING WITHOUT A JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR PROVISIONS.

terms and conditions set forth in this Agreement shall be binding on the undersigned unless it is set forth in writing and duly executed by the undersigned and Franchisor.

c. This Agreement shall be binding on the undersigned's heirs, executors, successors and assigns as though originally executed by such persons.

d. *Notices.* All notices permitted or required under this Agreement shall be in writing and shall be delivered by personal delivery, courier, such as FedEx® or UPS®, or by U.S. Mail, sent certified or registered mail, return receipt requested, to the address set forth in the first paragraph of this Agreement, with a courtesy copy sent via email ~~or facsimile~~ (to the address set forth on the signature page below) for the respective Party to be noticed, which address may be amended from time to time pursuant to the terms of this *Section 7.d*. Notices provided under this *Section 7.d* shall be deemed received upon personal delivery or delivery by courier and within five (5) days after deposit in the U.S. Mail.

e. *Governing Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the state where the Franchised Business is located ~~State of Arizona~~ without reference to conflict of laws principles. Except for actions seeking injunctive relief (which may be brought in any appropriate jurisdiction) suit under this Agreement shall only be brought in the state or federal courts located in the county and state where the Franchised Business is located ~~Maricopa County, Arizona~~. This choice of jurisdiction and venue is intended by the Parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the Parties with respect to, or arising out of, this Agreement in any jurisdiction other than as specified in this *Section 7.e*. Each Party waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to the jurisdiction and venue with respect to any proceeding brought in accordance with this *Section 7.e*.

f. *No Assignment.* The undersigned shall not assign or transfer any rights or obligations under this Agreement without Franchisor's prior written consent, which may be withheld in Franchisor's sole discretion. Any assignment made in violation of this *Section 7.f* shall be void.

g. *Counterparts; Facsimile Signatures.* This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original document as against the Party whose signature appears thereon, and all of which shall together constitute one and the same Agreement. The signatures required for execution may be transmitted to the other Party via facsimile or email and such signature shall be deemed a duplicate original, shall be effective upon receipt by the other Party, may be admitted in evidence and shall fully bind the Party and person making such signature.

**[SIGNATURE PAGE FOLLOWS]**

9311 E. Via de Ventura  
Scottsdale Arizona 85258

If to Sublessee: At the Premises or as designated  
in the notice provision(s) of the  
Franchise Agreement

All communications and notices will be effective upon delivery in person or by courier (with proof of delivery) in the manner set forth above. Any party may change his, her, or its address by giving notice in writing, stating his, her, or its new address, to the other party to this Sublease as provided in the foregoing manner.

18. Personal Property Taxes. Sublessee will comply with all legal requirements for filing a personal property tax return for, and paying all taxes assessed against, all personal property, equipment, and fixtures located within the Premises during the Term hereof, with such payment to be made by Sublessee directly to the taxing authority on or before the due date thereof.

19. Quiet Enjoyment. So long as Sublessee pays all amounts due hereunder and performs all other covenants and agreements herein set forth, and so long as no Event of Default exists, Sublessee will peaceably and quietly have, hold, and enjoy the Premises for the Term without hindrance from Sublessor subject to the terms and provisions of this Sublease. As this is a Sublease, Sublessee agrees to take the Premises subject to the terms of the Lease and all matters of record.

20. Governing Law. This Sublease and all questions relating to its validity, interpretation, performance, and enforcement will be governed by and construed, interpreted and enforced in accordance with the laws of the ~~state where the Premises are located~~ State of Arizona, notwithstanding any Arizona or other state's conflict of laws provisions to the contrary.

21. Attorneys' Fees. If either party should prevail in any litigation or other legal proceeding instituted by or against the other related to this Sublease, the final prevailing party, as determined by the court or the like, will receive from the non-prevailing party all costs and reasonable attorneys' fees (payable at standard hourly rates) incurred in such litigation or other legal proceeding, including costs on appeal, as determined by the court or the like. Sublessee will also pay to Sublessor, as additional rent, Sublessor's reasonable attorneys' fees incurred as a result of any breach or default by Sublessee under this Sublease.

22. Successors and Assigns. Subject to Section 9 of this Sublease, which restricts Sublessee's rights to assign this Sublease and its rights hereunder, this Sublease will be binding upon and inure to the benefit of the parties and their respective assigns, legal representatives, executors, heirs, and successors. Any attempt by Sublessee to assign this Sublease, or any of its rights hereunder, or to delegate its obligations hereunder, without strict compliance with the terms of Section 9 will be void. Notwithstanding anything contained in this Sublease to the contrary, Sublessor may assign this Sublease, or any of its rights hereunder, or delegate any of its obligations hereunder, without the consent of Sublessee or any other person.

23. Joint and Several Liability. If Sublessee consists of more than one person or entity, the obligations hereunder will be joint and several.

24. Entire Agreement. This Sublease, including the exhibits hereto contains the entire understanding and agreement of the parties with respect to the subject matter hereof and supersedes, replaces, and extinguishes all prior agreements and understandings between the parties with respect to that subject matter. Each of the exhibits hereto and such other agreements (whether between the

6. Guarantor waives any requirement that Sublessor may have, if any, to provide notice of acceptance of this Guaranty and/or notice of non-performance or non-payment by Sublessee of any of its obligations or liabilities under the Sublease.

7. Guarantor agrees to pay all attorneys' fees, costs, and expenses incurred by Sublessor in enforcing this Guaranty, whether or not suit or action is filed, and if suit or action is filed, then through trial and all appeals, and also in any proceedings or matter in Bankruptcy Court. Guarantor assumes all liability for all losses, costs, attorney's fees, and expenses that Sublessor incurs as a result of a default by Sublessee, including those fees and expenses incurred in a bankruptcy proceeding involving Sublessee.

8. Guarantor hereby agrees that upon notice of default or upon an uncured default of the Sublease or any other agreement between Guarantor (or a legal entity thereof) and Sublessor or its affiliates, and with no prior notice, Guarantor consents to Sublessor's (or its affiliates' or third-party contractors') acquisition and use of non-business consumer credit reports on Guarantor in order to evaluate as necessary the financial condition of Guarantor as principal, member, manager, franchisee, and/or guarantor in connection with the collection of monetary obligations as contemplated by the Franchise Agreement, the Sublease, this Guaranty, a promissory note, or any other agreements between Guarantor (or a legal entity thereof) and Sublessor or its affiliates. Guarantor hereby knowingly consents to the use of such credit reports consistent with the Federal Fair Credit Reporting Act as contained in 15 U.S.C. § 1681 et seq.

9. This Guaranty is personal to Guarantor and the obligations and duties imposed herein may not be delegated or assigned; provided, however, that this Guaranty shall be binding upon the successors, assigns, and personal representatives of Guarantor. This Guaranty shall inure to the benefit of Sublessor, its affiliates, successors, and assigns.

10. [The undersigned \_\_\_\_\_ include name(s) here of each of the undersigned who is not married] each represents that he or she is not married as of the first date set forth above.]

11. In the event that any one or more provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Guaranty shall be construed to bind Guarantor to the maximum extent permitted by law that is subsumed within the terms of such provision as though it were separately articulated herein.

12. This Guaranty shall be interpreted and construed under the laws of the state where the Premises are located ~~of the State of Arizona, which laws shall prevail in the event of any conflict of law.~~ Any appropriate state or federal court located in the county and state where the Premises are located ~~Maricopa County, Phoenix, Arizona~~ has exclusive jurisdiction over any case or controversy arising under or in connection with this Guaranty and is the proper forum in which to adjudicate the case or controversy, and the parties hereto irrevocably submit to the jurisdiction of any such court. THE PARTIES AGREE THAT ALL DISPUTES ADMITTED TO THE COURT PURSUANT TO THIS SECTION 12 SHALL BE TRIED TO THE COURT SITTING WITHOUT A JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR PROVISIONS.

13. If Guarantor consists of two (2) or more persons, then each person will be jointly and severally liable under the provisions of this Guaranty.

14. Guarantor acknowledges (i) that it is a condition to the granting of the Sublease to Sublessee that Guarantor shall execute and deliver this Guaranty to Sublessor, (ii) that Sublessor has entered into the Sublease in reliance upon the agreement of Guarantor to do so, and (iii) that,

Brand store #

## CONSENT TO TRANSFER AND RELEASE AGREEMENT

(Store #; City, State)

This CONSENT TO TRANSFER AND RELEASE AGREEMENT ("Agreement") is entered into on \_\_\_\_\_ ("Effective Date") by and between \_\_\_\_\_, a(n) \_\_\_\_\_ ("Assignor"), and \_\_\_\_\_, a(n) \_\_\_\_\_ ("Assignee"), and MTY FRANCHISING USA, INC., a Tennessee corporation [, as ultimate assignee of \_\_\_\_\_] ("Franchisor"). All capitalized terms not defined expressly in this Agreement shall have the meaning assigned to such terms in the Franchise Agreement (as defined in Recital A. below).

### Recitals

A. Franchisor and Assignor are parties to a Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_[, as amended], ("collectively the ]Franchise Agreement") for the *Built Custom Burgers* restaurant located at \_\_\_\_\_ ("Franchised Business").

B. Assignor desires to assign the Franchised Business to Assignee, and Assignee desires to accept the assignment. [Assignor and Assignee hereby represent and warrant to Franchisor that the assignment of the Franchised Business is supported by a purchase agreement entered into by Assignor and Assignee and hereby agree that, consistent with their indemnification obligations provided for below, they have sole responsibility for any disputes related to the accuracy and content of such purchase agreement].

~~C. [FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER] Assignor hereby agrees that Assignor is the responsible franchisee under the Franchise Agreement from \_\_\_\_\_, 20\_\_\_\_ until the date immediately preceding the Effective Date. Assignee hereby agrees that Assignee is the responsible franchisee under the Franchise Agreement as of and after the Effective Date and continuing through the Term of the Franchise Agreement[, as amended by the [First] Amendment to Franchise Agreement].~~

~~D.C. [FOR FULL TRANSFER AND ASSIGNEE ENTERS INTO A NEW FA] Assignee and Assignor each acknowledges that upon assignment, Assignee must execute Franchisor's current form of franchise agreement, which includes its current royalty fees and advertising contributions that may be greater than the amount of such corresponding fees in Assignor's Franchise Agreement. The Franchise Agreement shall be deemed expired as of and after the effective date of Assignee's current form of franchise agreement executed concurrently with this Agreement.~~

~~[OR FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER] Assignee acknowledges receipt of a copy of the Franchise Agreement from Assignor.~~

~~E.D. Franchisor agrees to consent to the assignment of the Franchised Business from Assignor to Assignee, subject to the terms and conditions of this Agreement.~~

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions and terms contained in this Agreement, the parties agree as follows:

### Agreement

1. The foregoing Recitals are hereby incorporated in and made a part of this Agreement.

2. Pursuant to the terms and conditions of the Franchise Agreement, Assignor requested Franchisor's prior written consent to assign the Franchised Business ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER: and Franchise Agreement]~~ from Assignor to Assignee. Franchisor hereby consents to the transfer of the Franchised Business ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER: and Franchise Agreement]~~ to Assignee subject to the terms and conditions of this Agreement being fully met by both Assignor and Assignee.

3. Assignor agrees to transfer the Franchised Business ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER: and Franchise Agreement]~~ to Assignee pursuant to the transfer provisions in Assignor's Franchise Agreement, and Assignee accepts the transfer of the Franchised Business pursuant to the transfer provisions in Assignor's Franchise Agreement, including, but not limited to, the payment of the applicable transfer fees.

4. ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER]~~ Assignor and Assignee agree that, pursuant to the terms of the Franchise Agreement, Assignee is required to execute Franchisor's then current form of franchise agreement and all exhibits attached thereto prior to the closing of the transfer of the Franchised Business. Franchisor hereby waives Assignee's obligation to execute Franchisor's then current form of franchise agreement and all exhibits attached thereto as required by the terms of the Franchise Agreement for this transfer only. Assignor hereby acknowledges and agrees that Franchisor's waiver of Assignor's obligations under the terms of the Franchise Agreement is not a permanent waiver and that Franchisor, its assigns and their respective affiliates hereby reserve the right to require Assignor, Assignee or their respective affiliates, authorized assignees or principals to sign Franchisor's then current form of franchise agreement and all exhibits attached thereto in connection with other transfers that may be requested by and between the parties.

5.4. Subject to Section 123 below, Assignor hereby agrees to continue to be bound by the terms and conditions set forth in the Franchise Agreement until the date immediately preceding the Effective Date.

6.5. ~~[FOR FULL TRANSFER AND ASSIGNEE ENTERS INTO A NEW FA]~~ Assignee hereby agrees to execute Franchisor's current form of franchise agreement with Franchisor, and to be bound by the terms and conditions set forth in the current form of franchise agreement.

~~[OR FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER]~~ Assignee hereby agrees to be bound by the terms and conditions set forth in the Franchise Agreement.

7.6. ~~[USE WHEN BUYER IS PAYING THE TRANSFER [FRANCHISE] FEE]~~ Pursuant to the terms of the Franchise Agreement, Franchisor is owed a Transfer [Franchise] Fee in the amount of \_\_\_\_\_ Thousand \_\_\_\_\_ Hundred and 00/100 Dollars (\$XX,X00.00). Assignor, Assignee and Franchisor hereby agree that the Transfer [Franchise] Fee will be paid by Assignee to Franchisor, contemporaneous with the execution of this Agreement, on behalf of Assignor. Assignor shall be liable to Franchisor for the Transfer [Franchise] Fee if Assignee fails to pay the Transfer [Franchise] Fee in full.

~~[OR USE WHEN SELLER IS PAYING THE TRANSFER [FRANCHISE] FEE]~~ Pursuant to the terms of the Franchise Agreement, Franchisor is owed, contemporaneous with the execution of this Agreement, a Transfer [Franchise] Fee in the amount of \_\_\_\_\_ Thousand \_\_\_\_\_ Hundred and 00/100 Dollars (\$XX,X00.00).

8.7. ~~[USE IF BUYER IS PAYING THE [TRANSFER] TRAINING FEE]~~ Pursuant to the terms of the Franchise Agreement, Franchisor is owed a [Transfer] Training Fee in the amount of

\_\_\_\_\_ Thousand \_\_\_\_\_ Hundred and 00/100 Dollars (\$X,X00.00). Assignor, Assignee and Franchisor hereby agree that the [Transfer] Training Fee will be paid by Assignee to Franchisor, contemporaneous with the execution of this Agreement, on behalf of Assignor. Assignor shall be liable to Franchisor for the [Transfer] Training Fee if Assignee fails to pay the [Transfer] Training Fee in full.

[OR USE IF SELLER IS PAYING THE [TRANSFER] TRAINING FEE] Pursuant to the terms of the Franchise Agreement, Franchisor is owed, contemporaneous with the execution of this Agreement, a [Transfer] Training Fee in the amount of \_\_\_\_\_ Thousand \_\_\_\_\_ Hundred and 00/100 Dollars (\$X,X00.00).

~~9.8.~~ Assignor shall cure any and all monetary defaults due and payable under Assignor's phone service agreement, complete and sign a letter of agency, letter of authorization or equivalent form, and provide the form to Assignee at least one week prior to the transfer of the Franchised Business to allow Assignee to retain the telephone number of the Franchised Business.

~~10.9.~~ Assignee will provide the letter of agency, letter of authorization or equivalent form to Assignee's phone service provider in an effort to retain the telephone number of the Franchised Business.

~~11.10.~~ Assignor shall cure any and all defaults, debts, and/or charges of any monetary consideration due and payable to Franchisor (or its affiliates) prior to the execution of this Agreement, including, without limitation, any and all past due fees under the Franchise Agreement, including, without limitation, current royalty fees, and advertising contributions, under the Franchise Agreement through the date immediately preceding the Effective Date, along with any accruing interest, late fees or other penalties as allowed under the Franchise Agreement and/or applicable law. Notwithstanding the foregoing, in the event Assignor fails to cure and fully satisfy such debts and/or charges/expenses as required herein, Franchisor has the sole and absolute discretion to move forward with the transfer as contemplated by this Agreement but without waiving any amounts due and owing to Franchisor and/or their respective affiliates with reservation of any and all rights and remedies to pursue such defaults, debts and charges against Assignor at a later time.

~~12.11.~~ Assignor represents and warrants that it fully disclosed to Franchisor all terms of the transfer along with any information, which, if known by Franchisor, might provide grounds for Franchisor to reasonably withhold its consent to this Agreement.

~~13.12.~~ Assignor ratifies and reaffirms any and all provisions and/or agreements with Franchisor intended to survive the assignment and/or termination of the Franchise Agreement and agrees to remain bound by them, including but not limited to any provisions pertaining to confidential information and covenant against competition.

~~14.13.~~ Assignor agrees that it has no rights in any of Franchisor's trademarks, trade names, service marks, and/or the like (collectively, the "Trademarks"), except in connection with other *Built Custom Burgers* franchises owned by Assignor, if any. Assignor further agrees and acknowledges that such Trademarks are the sole property of Franchisor and that Assignor has no rights in them, except as authorized by Franchisor in connection with other *Built Custom Burgers* franchises owned by Assignor, if any. Assignor quitclaims to Franchisor any and all rights in Franchisor's Trademarks in the event Assignor has any such rights, except those rights acquired through other *Built Custom Burgers* franchises authorized by Franchisor and owned by Assignor, if any.

~~15.14.~~ Assignee acknowledges that Franchisor has not made any express or implied verbal or written representations or promises whatsoever that:

- a. future assignments will be approved;
- b. Assignee will have financial success operating the Franchised Business;
- c. the consideration, if any, paid for the Franchised Business represents the true value of the Franchised Business; or
- d. Assignor is not in default under the terms of the Franchise Agreement.

~~16.15.~~ Assignee acknowledges that Franchisor has made no representations whatsoever concerning the value of the Franchised Business.

~~17.16.~~ All notices required or permitted under this Agreement shall be in writing and shall be delivered by personal delivery, courier, such as FedEx® or UPS®, or by U.S. Mail sent via certified or registered mail, return receipt requested, to the address set forth below, which address may be amended from time to time pursuant to the terms of this Section. You have an obligation to promptly notify us pursuant to this Section whenever your mailing address, and/or phone number change. Notices shall be provided to the parties at the address specified below:

If to Assignee: [Name]  
[Attn:]  
[Address]  
[City, State, Zip]  
Telephone Number:

If to Assignor: [Name]  
[Attn:]  
[Address]  
[City, State, Zip]  
Telephone Number:

If to Franchisor: MTY FRANCHISING USA, INC.  
Attn: Legal Department  
9311 E Via de Ventura  
Scottsdale, Arizona 85258  
Telephone Number: (480) 362-4800

~~18.17.~~ Franchisor hereby consents to the transfer of the Franchised Business to Assignee subject to the terms and conditions of this Agreement being fully met by both Assignor and Assignee.

~~19.18.~~ Assignor and Assignee understand the Effective Date is the closing date indicated on the escrow statement/closing statement.

~~20.19.~~ IN CONSIDERATION OF FRANCHISOR'S AGREEMENTS SET FORTH IN THIS AGREEMENT, ASSIGNOR REPRESENTS THAT FRANCHISOR HAS NOT FAILED TO PERFORM, AND IS NOT IN ANY RESPECT IN DEFAULT IN THE PERFORMANCE OF, ANY OF ITS OBLIGATIONS UNDER THE FRANCHISE AGREEMENT, AND ASSIGNOR AND EACH OF ITS CURRENT, PAST AND FUTURE PREDECESSORS, SUCCESSORS AND ASSIGNS, AND EACH OF ITS AND THE FOREGOING ENTITIES RESPECTIVE PARENTS, SUBSIDIARIES, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, GUARANTORS,

IF ANY OF THE PROVISIONS OF THIS AGREEMENT ARE HELD INVALID FOR ANY REASONS, THE REMAINDER OF THIS AGREEMENT WILL NOT BE AFFECTED AND WILL REMAIN IN FULL FORCE AND EFFECT.

~~21-~~20. Assignor and Assignee hereby agree to protect, defend and indemnify each of the Franchisor Affiliates and hold them harmless from and against any and all costs and expenses actually incurred by them or for which they are liable, including, without limitation, attorney's fees, court costs, expert witness fees and costs, losses, liabilities, damages, claims and demands of every kind or nature, and including those incurred pursuant to a settlement entered into in good faith, arising out of or in connection with the Franchised Business, including specifically without limitation any claim or controversy arising out of (i) this Agreement, (ii) the Franchise Agreement, (iii) any transfer of the Franchised Business by Assignee or Assignor, (iv) acts or omissions of Assignee and/or Assignor which are not in strict compliance with this Agreement, the Franchise Agreement, and/or the Operations Manual in respect of use or display of the Proprietary Marks, or (v) acts or omissions of Assignee and/or Assignor which tend to create an impression that the relationship between the parties hereto is other than one of Franchisor and Franchisee. Franchisor Affiliates, at their sole discretion, may hire legal counsel to defend any actions brought against any Franchisor Affiliates which arise out of Assignor's obligations under all agreements entered into between Assignor and any of the Franchisor Affiliates, including, without limitation, this Agreement, and Assignee's obligations herein. Assignor and Assignee hereby agree to pay any and all attorneys' fees, expert costs, and any other fees and costs incurred by Franchisor Affiliates to said selected counsel upon the request of Franchisor Affiliates. Assignor and Assignee will, if requested by any Franchisor Affiliates, defend any suits at the sole cost and expense of Assignor and Assignee through the use of attorneys determined by Franchisor Affiliates. For purposes of this provision, requests shall be made pursuant to the notice provisions set forth in this Agreement. Notwithstanding the other provisions of this Section to the contrary, if any, except as otherwise specified in this Agreement, Assignor shall not be responsible for any of the acts or omissions of Assignee after the Effective Date.

~~22-~~21. Assignor agrees for itself and its successors and assigns that it will not disparage, denigrate or, defame the Franchisor Affiliates, or any of their business dealings, financial condition, pending litigation and arbitrations, officers, directors, employees, agents, representatives or attorneys, either publicly or privately, by any means whatsoever (including electronic means) (collectively, "Non Disparagement Provision"). In the event such a communication is made to anyone, including, but not limited to, third party legal counsel adverse to Franchisor Affiliates in any fashion, former employees of Franchisor Affiliates, former shareholders of Franchisor Affiliates, current or former vendors, franchisees, licensees, or area representatives of Franchisor Affiliates' quick service restaurant brands, media government agencies, public interest groups, and publishing companies, it will be considered a material breach of the terms of this Agreement and Franchisor Affiliates shall be entitled to bring a legal action for appropriate equitable relief as well as damages. In addition to any other rights or remedies available at law, in equity, or by statute, Assignor consents to the specific enforcement of this Non Disparagement Provision through an injunction or restraining order issued by an appropriate court, without the requirement of posting a bond. Notwithstanding the above, nothing in this provision shall prevent or prohibit Assignor from testifying in any legal proceeding, including a deposition, hearing or trial, from cooperating in good faith in any governmental investigation or action, or from making any report required by law.

~~23-~~22. Each individual executing this Agreement on behalf of a partnership, limited liability company or corporation represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of the partnership, limited liability company, or corporation, and agrees to deliver evidence of his or her authority to Franchisor upon request by Franchisor.

~~24.23.~~ The provisions of this Agreement are severable, and if any one or more provisions may be determined to be unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. If the provision found to be unenforceable was material to this Agreement, the parties agree to promptly negotiate the terms of a substitute provision to replace the severed provision consistent with the then-current law and the parties' original intent.

~~25.24.~~ This Agreement shall be construed under and according to the laws of the State of Arizona, without regard to conflict of laws principles.

~~26.25.~~ ANY AND ALL COURT PROCEEDINGS ARISING FROM THIS AGREEMENT SHALL BE BROUGHT IN, AND ONLY ~~IN THE COUNTY AND STATE WHERE THE FRANCHISED BUSINESS IS LOCATED, A COURT OF COMPETENT JURISDICTION LOCATED IN MARICOPA COUNTY, ARIZONA.~~ THE PARTIES CONSENT TO THE EXERCISE OF SUBJECT MATTER AND PERSONAL JURISDICTION BY SUCH COURTS AND HEREBY WAIVE ANY OBJECTIONS OR DEFENSE THERETO.

~~27.26.~~ This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signatures required for execution may be transmitted to the other party via facsimile or a scanned .pdf file sent via email and such signature shall be deemed a duplicate original, shall be effective upon receipt by the other party, may be admitted in evidence and shall fully bind the party and person making such signature.

~~28.27.~~ No amendment, addendum, modification, supplement or waiver of this Agreement or any of its provisions shall be binding on the parties unless made in writing and duly executed by an authorized representative of Franchisor and Assignor and Assignee. A failure of any party to enforce at any time any of the provisions of this Agreement or to require at any time performance by another party or any provision of this Agreement, shall in no way be construed as a continuing waiver of those provisions or of any other rights under this Agreement.

~~29.28.~~ Except as otherwise specified in this Agreement, this Agreement shall not be construed in any way as modifying, waiving, or affecting any of the terms, covenants, conditions, or agreements contained in the Franchise Agreement executed by Assignor, or the current form of franchise agreement to be executed by Assignee.

~~30.29.~~ This Agreement shall inure to the benefit of and shall be binding upon each of the parties hereto and their respective successors and assigns.

**[SIGNATURE PAGE FOLLOWS]**

## CONSENT TO TRANSFER AND RELEASE AGREEMENT

(Store #; City, State)

This CONSENT TO TRANSFER AND RELEASE AGREEMENT ("Agreement") is entered into on \_\_\_\_\_ ("Effective Date") by and between \_\_\_\_\_, a(n) \_\_\_\_\_ ("Assignor"), and \_\_\_\_\_, a(n) \_\_\_\_\_ ("Assignee"), and MTY FRANCHISING USA, INC., a Tennessee corporation[, as ultimate assignee of \_\_\_\_\_] ("Franchisor") and \_\_\_\_\_, a(n) \_\_\_\_\_ ("Sublessor") (Franchisor and Sublessor may collectively be referred to in this Agreement as "Company"). All capitalized terms not defined expressly in this Agreement shall have the meaning assigned to such terms in the Franchise Agreement (as defined in Recital A. below) or the Sublease (as defined in Recital B. below).

### Recitals

A. Franchisor and Assignor are parties to a Franchise Agreement dated \_\_\_\_\_[, as amended], (collectively the "Franchise Agreement") for the *Built Custom Burgers* restaurant located at \_\_\_\_\_ ("Franchised Business").

B. Sublessor and Assignor are parties to a Sublease Agreement dated \_\_\_\_\_[, as amended], (collectively the "Sublease") for the Franchised Business.

C. Assignor desires to assign the Franchised Business to Assignee, and Assignee desires to accept the assignment. [Assignor and Assignee hereby represent and warrant to Company that the assignment of the Franchised Business is supported by a purchase agreement entered into by Assignor and Assignee and hereby agree that, consistent with their indemnification obligations provided for below, they have sole responsibility for any disputes related to the accuracy and content of such purchase agreement.

D. ~~[FOR FULL TRANSFER AND ASSIGNEE ENTERS INTO A NEW FA]~~ Assignee acknowledges that upon assignment, Assignee must execute Franchisor's current form of franchise agreement, which includes its current royalty fees and advertising contributions that may be greater than the amount of such corresponding fees in Assignor's Franchise Agreement. The Franchise Agreement shall be deemed expired as of and after the effective date of Assignee's current form of franchise agreement executed concurrently with this Agreement.

~~[OR FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER]~~  
Assignee acknowledges receipt of a copy of the Franchise Agreement from Assignor.

E. ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER]~~ Assignor hereby agrees that Assignor is the responsible franchisee under the Franchise Agreement from \_\_\_\_\_ until the date immediately preceding the Effective Date. Assignee hereby agrees that Assignee is the responsible franchisee under the Franchise Agreement as of and after the Effective Date and continuing through the Term of the Franchise Agreement[, as amended by the [First] Amendment to Franchise Agreement].

F.E. ~~[FOR FULL TRANSFER AND ASSIGNEE ENTERS INTO A NEW SUBLEASE]~~ Assignee acknowledges that upon assignment, Assignee must execute Sublessor's current form of sublease. The Sublease shall be deemed expired as of and after the effective date of Assignee's current form of sublease executed concurrently with this Agreement.

~~[OR FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER]~~  
Assignee acknowledges receipt of a copy of the Sublease from Assignor, together with all amendments, supplements, riders, exhibits, and revisions, including a copy of the underlying Master Lease, and fully understands and acknowledges the obligations under the Sublease.

G. ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER]~~ Assignor hereby agrees that Assignor is the responsible sublessee under the Sublease from \_\_\_\_\_ until the date immediately preceding the Effective Date. Assignee hereby agrees that Assignee is the responsible sublessee under the Sublease as of and after the Effective Date and continuing through the Term of the Sublease [, as amended by the [First] Amendment to Franchise Sublease].

H.F. Franchisor agrees to consent to the assignment of the Franchised Business from Assignor to Assignee, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions and terms contained in this Agreement, the parties agree as follows:

### Agreement

1. The foregoing Recitals are hereby incorporated in and made a part of this Agreement.

2. Pursuant to the terms and conditions of the Franchise Agreement, Assignor requested Franchisor's prior written consent to assign the Franchised Business ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER: and Franchise Agreement]~~ from Assignor to Assignee. Franchisor hereby consents to the transfer of the Franchised Business ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER: and Franchise Agreement]~~ to Assignee subject to the terms and conditions of this Agreement being fully met by both Assignor and Assignee.

3. ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER]~~ Pursuant to the terms and conditions of the Sublease, Assignor has requested Sublessor's prior written consent to assign the Sublease from Assignor to Assignee. Sublessor hereby consents to the assignment of the Sublease to Assignee, subject to the terms and conditions of this Agreement being fully met by both Assignor and Assignee.

4.3. Assignor agrees to transfer the Franchised Business ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER: and Franchise Agreement and Sublease]~~ to Assignee pursuant to the transfer provisions in Assignor's Franchise Agreement, and Assignee accepts the transfer of the Franchised Business ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER: and Franchise Agreement and Sublease]~~, pursuant to the transfer provisions in Assignor's Franchise Agreement, including, but not limited to, the payment of the applicable transfer fees.

5. ~~[FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER]~~ Assignor and Assignee agree that, pursuant to the terms of the Franchise Agreement, Assignee is required to execute Franchisor's then current form of franchise agreement and all exhibits attached thereto prior to the closing of the transfer of the Franchised Business. Franchisor hereby waives Assignee's obligation to execute Franchisor's then current form of franchise agreement and all exhibits attached thereto as required by the terms of the Franchise Agreement for this transfer only. Assignor hereby acknowledges and agrees that Franchisor's waiver of Assignor's obligations under the terms of the Franchise Agreement is not a permanent waiver and that Franchisor, its assigns

~~and their respective affiliates hereby reserve the right to require Assignor, Assignee or their respective affiliates, authorized assignees or principals to sign Franchisor's then current form of franchise agreement and all exhibits attached thereto in connection with other transfers that may be requested by and between the parties.~~

6.4. Subject to Section \_\_\_\_ below, Assignor hereby agrees to continue to be bound by the terms and conditions set forth in the Franchise Agreement until the date immediately preceding the Effective Date.

~~7.5. [FOR FULL TRANSFER AND ASSIGNEE ENTERS INTO A NEW FA] Assignee hereby agrees to execute Franchisor's current form of franchise agreement with Franchisor, and to be bound by the terms and conditions set forth in the current form of franchise agreement.~~

~~[OR FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER] Assignee hereby agrees to be bound by the terms and conditions set forth in the Franchise Agreement.~~

8.6. [USE WHEN **BUYER** IS PAYING THE TRANSFER [FRANCHISE] FEE] Pursuant to the terms of the Franchise Agreement, Franchisor is owed a Transfer [Franchise] Fee in the amount of \_\_\_\_\_ Thousand \_\_\_\_\_ Hundred and 00/100 Dollars (\$XX,X00.00). Assignor, Assignee and Franchisor hereby agree that the Transfer [Franchise] Fee will be paid by Assignee to Franchisor, contemporaneous with the execution of this Agreement, on behalf of Assignor. Assignor shall be liable to Franchisor for the Transfer [Franchise] Fee if Assignee fails to pay the Transfer [Franchise] Fee in full.

[OR USE WHEN **SELLER** IS PAYING THE TRANSFER [FRANCHISE] FEE] Pursuant to the terms of the Franchise Agreement, Franchisor is owed, contemporaneous with execution of this Agreement, a Transfer [Franchise] Fee in the amount of \_\_\_\_\_ Thousand \_\_\_\_\_ Hundred and 00/100 Dollars (\$XX,X00.00).

9.7. [USE IF **BUYER** IS PAYING THE [TRANSFER] TRAINING FEE] Pursuant to the terms of the Franchise Agreement, Franchisor is owed a [Transfer] Training Fee in the amount of \_\_\_\_\_ Thousand \_\_\_\_\_ Hundred and 00/100 Dollars (\$X,X00.00). Assignor, Assignee and Franchisor hereby agree that the [Transfer] Training Fee will be paid by Assignee to Franchisor, contemporaneous with the execution of this Agreement, on behalf of Assignor. Assignor shall be liable to Franchisor for the [Transfer] Training Fee if Assignee fails to pay the [Transfer] Training Fee in full.

[OR USE IF **SELLER** IS PAYING THE [TRANSFER] TRAINING FEE] Pursuant to the terms of the Franchise Agreement, Franchisor is owed, contemporaneous with the execution of this Agreement, a [Transfer] Training Fee in the amount of \_\_\_\_\_ Thousand \_\_\_\_\_ Hundred and 00/100 Dollars (\$X,X00.00).

10.8. Assignor agrees to the assignment of Assignor's interest in and to the lease security deposit, if any, currently held by the Landlord to the Assignee.

11.9. Subject to Section 168 below, Assignor hereby agrees to continue to be bound by the terms and conditions set forth in the Sublease through the date immediately preceding the Effective Date.

12.10. [IF ASSIGNEE IS SIGNING A NEW SUBLEASE] Assignee hereby agrees to execute Sublessor's current form of sublease, and to be bound by the terms and conditions set forth in the current form of sublease.

[OR IF ASSIGNEE IS NOT SIGNING A NEW SUBLEASE] Assignee hereby agrees to be bound by the terms and conditions set forth in the Sublease.

~~13.11.~~ Assignor shall cure any and all monetary defaults due and payable under Assignor's phone service agreement, complete and sign a letter of agency, letter of authorization or equivalent form, and provide the form to Assignee at least one week prior to the transfer of the Franchised Business to allow Assignee to retain the telephone number of the Franchised Business.

~~14.12.~~ Assignee will provide the letter of agency, letter of authorization or equivalent form to Assignee's phone service provider in an effort to retain the telephone number of the Franchised Business.

~~15.13.~~ Assignor shall cure any and all defaults, debts, and/or charges of any monetary consideration due and payable to Franchisor (or its affiliates) prior to the execution of this Agreement, including, without limitation, any and all past due fees under the Franchise Agreement and Sublease, as applicable, including, without limitation, current royalty fees, advertising contributions, and rental and other occupancy expenses/charges through the date immediately preceding the Effective Date, along with any accruing interest, late fees or other penalties as allowed under the Franchise Agreement, Sublease and/or applicable law. Notwithstanding the foregoing, in the event Assignor fails to cure and fully satisfy such debts and/or charges/expenses as required herein, Franchisor has the sole and absolute discretion to move forward with the transfer as contemplated by this Agreement but without waiving any amounts due and owing to Company and/or their respective affiliates with reservation of any and all rights and remedies to pursue such defaults, debts and charges against Assignor at a later time.

~~16.14.~~ Assignor and Assignee hereby understand and agree that there may be additional charges and/or credits under the Lease and/or Sublease for rent including, without limitation, common area and maintenance charges/reconciliations, insurance, and/or taxes, related to the Franchised Business. Assignor and Assignee further hereby agree that Assignee shall be entitled to receive the credits and/or pay the actual charges incurred to the Landlord or Sublessor, as directed by Sublessor, within ten (10) days from receipt of Sublessor's notice of such charges and/or credits to Assignee. Assignor and Assignee hereby represent and warrant to Sublessor that Assignor and Assignee have taken such actions as necessary to account for such charges and/or credits in the purchase price for the Franchised Business.

~~17.15.~~ Assignor represents and warrants that it fully disclosed to Company all terms of the transfer along with any information, which, if known by Company, might provide grounds for Company to reasonably withhold its consent to this Agreement.

~~18.16.~~ Assignor ratifies and reaffirms any and all provisions and/or agreements with Company intended to survive the assignment and/or termination of the Franchise Agreement and Sublease and agrees to remain bound by them, including but not limited to any provisions pertaining to confidential information and covenant against competition.

~~19.17.~~ Assignor agrees that it has no rights in any of Franchisor's trademarks, trade names, service marks, and/or the like (collectively, the "Trademarks"), except in connection with other *Built Custom Burgers* franchises owned by Assignor, if any. Assignor further agrees and acknowledges that such Trademarks are the sole property of Franchisor and that Assignor has no rights in them, except as authorized by Franchisor in connection with other *Built Custom Burgers* franchises owned by Assignor, if any. Assignor quitclaims to Franchisor any and all rights in Franchisor's Trademarks in the event Assignor has any such rights, except those rights acquired through other *Built Custom Burgers* franchises authorized by Franchisor and owned by Assignor, if any.

~~20.18.~~ Assignee acknowledges that Company has not made any express or implied verbal or written representations or promises whatsoever that:

- a. future assignments will be approved;
- b. Assignee will have financial success operating the Franchised Business;
- c. the landlord will grant an extension of the Master Lease where the Franchised Business is located and operates;
- d. the consideration, if any, paid for the Franchised Business represents the true value of the Franchised Business; or
- e. Assignor is not in default under the terms of the Franchise Agreement and/or the Sublease.

~~21.19.~~ Assignee acknowledges that Company has made no representations whatsoever concerning the value of the Franchised Business.

~~22.20.~~ All notices required or permitted under this Agreement shall be in writing and shall be delivered by personal delivery, courier, such as FedEx® or UPS®, or by U.S. Mail sent via certified or registered mail, return receipt requested, to the address set forth below, which address may be amended from time to time pursuant to the terms of this Section. You have an obligation to promptly notify us pursuant to this Section whenever your mailing address, and/or phone number change. Notices shall be provided to the parties at the address specified below:

If to Assignee:                      [Name]  
                                              [Attn:]  
                                              [Address]  
                                              [City, State, Zip]  
                                              Telephone Number:

If to Assignor:                      [Name]  
                                              [Attn:]  
                                              [Address]  
                                              [City, State, Zip]  
                                              Telephone Number:

If to Franchisor:                    MTY FRANCHISING USA, INC.  
                                              Attn: Legal Department  
                                              9311 E Via de Ventura  
                                              Scottsdale, Arizona 85258  
                                              Telephone Number: (480) 362-4800

If to Sublessor:                    [NAME OF SUBLESSOR]  
                                              Attn: Real Estate Department  
                                              9311 E Via de Ventura  
                                              Scottsdale, Arizona 85258  
                                              Telephone Number: (480) 362-4800

~~23.21.~~ Franchisor hereby consents to the transfer of the Franchised Business to Assignee subject to the terms and conditions of this Agreement being fully met by both Assignor and Assignee.

~~24.22.~~ Assignor and Assignee understand the Effective Date is the closing date indicated on the escrow statement/closing statement.

~~25.23.~~ IN CONSIDERATION OF COMPANY'S AGREEMENTS SET FORTH IN THIS AGREEMENT, ASSIGNOR REPRESENTS THAT COMPANY HAS NOT FAILED TO PERFORM, AND IS NOT IN ANY RESPECT IN DEFAULT IN THE PERFORMANCE OF, ANY OF ITS OBLIGATIONS UNDER THE SUBLEASE AND/OR THE FRANCHISE AGREEMENT, AND ASSIGNOR AND EACH OF ITS CURRENT, PAST AND FUTURE PREDECESSORS, SUCCESSORS AND ASSIGNS, AND EACH OF ITS AND THE FOREGOING ENTITIES RESPECTIVE PARENTS, SUBSIDIARIES, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, GUARANTORS, INSURERS, SPOUSES, HEIRS, EXECUTORS, TRUSTEES, AND ESTATES, IF ANY, OF ANY AND ALL SUCH ENTITIES (COLLECTIVELY WITH ASSIGNOR, "ASSIGNOR AFFILIATES") HEREBY IRREVOCABLY AND UNCONDITIONALLY RELEASE, REMISE AND FOREVER DISCHARGE COMPANY AND EACH ITS CURRENT, PAST AND FUTURE PREDECESSORS, SUCCESSORS AND ASSIGNS, AND EACH OF ITS AND THE FOREGOING ENTITIES RESPECTIVE PARENTS, SUBSIDIARIES, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, GUARANTORS, INSURERS, SPOUSES, HEIRS, EXECUTORS, TRUSTEES, AND ESTATES, IF ANY, OF ANY AND ALL SUCH ENTITIES (COLLECTIVELY WITH COMPANY "FRANCHISOR AFFILIATES"), FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, SUITS, DEBTS, DUTIES, ACCOUNTS, COVENANTS, CONTRACTS, AGREEMENTS, PROMISES, DAMAGES, JUDGMENTS, TAXES, LIABILITIES AND OBLIGATIONS, BOTH CONTINGENT AND FIXED, KNOWN AND UNKNOWN, NOW EXISTING OR HEREAFTER, OF EVERY KIND AND NATURE WHATSOEVER, IN LAW OR EQUITY, OR OTHERWISE, UNDER LOCAL STATE, OR FEDERAL LAW OR THE LAW OF ANY OTHER APPLICABLE JURISDICTION, THAT ANY OF THE ASSIGNOR AFFILIATES HAVE AGAINST ANY OF THE FRANCHISOR AFFILIATES, INCLUDING, WITHOUT LIMITATION, THOSE ARISING FROM, IN CONNECTION WITH OR RELATING TO: (I) THE SUBLEASE AND/OR FRANCHISE AGREEMENT (INCLUDING ANY AMENDMENTS OR MODIFICATIONS THERETO); (II) THE OPERATION OF THE FRANCHISED BUSINESS, INCLUDING ANY LEASING OR SUBLEASING RELATED THERETO; AND (III) THE OFFERING AND SALE OF THE FRANCHISED BUSINESS; ARISING FROM AN ACT, OMISSION, CONDUCT OR ACTIVITY OCCURRING BEFORE AND INCLUDING THE EFFECTIVE DATE.

IT IS UNDERSTOOD BY ASSIGNOR THAT IF THE FACTS OR LAW WITH RESPECT TO THE FOREGOING RELEASE HEREAFTER TURN OUT TO BE DIFFERENT FROM THE FACTS OR LAW KNOWN TO BE OR BELIEVED BY ASSIGNOR TO BE TRUE AS OF THE EFFECTIVE DATE HEREOF, THEN ASSIGNOR EXPRESSLY ASSUMES THE RISK OF THE FACTS OR LAW TURNING OUT TO BE SO DIFFERENT, AND AGREES THAT THE FOREGOING RELEASE SHALL BE IN ALL RESPECTS EFFECTIVE AND NOT SUBJECT TO TERMINATION OR RESCISSION IN WHOLE OR IN PART BASED UPON SUCH DIFFERENCES. WHERE THE FRANCHISED BUSINESS IS LOCATED IN THE STATE OF CALIFORNIA OR ASSIGNOR IS A RESIDENT OF THE STATE OF CALIFORNIA, ASSIGNOR KNOWINGLY WAIVES ALL RIGHTS AND PROTECTIONS, IF ANY, UNDER SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA, OR ANY SIMILAR LAW OF ANY STATE OR TERRITORY OF THE UNITED STATES OF AMERICA. SECTION 1542 PROVIDES AS FOLLOWS:

1542 GENERAL RELEASE; EXTENT. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

ASSIGNOR ACKNOWLEDGES AND WARRANTS THAT ASSIGNOR EITHER CONSULTED WITH LEGAL COUNSEL, OR HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL, BEFORE EXECUTING THIS AGREEMENT. ASSIGNOR UNDERSTANDS ITS MEANING, INCLUDING THE EFFECT OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE, AND EXPRESSLY CONSENTS THAT THIS AGREEMENT SHALL BE GIVEN FULL FORCE AND EFFECT ACCORDING TO EACH AND EVERY EXPRESS TERM AND PROVISION, INCLUDING, WITHOUT LIMITATION, TERMS RELATING TO THE AGREEMENT OF UNKNOWN AND UNSUSPECTED CLAIMS, DEMANDS, AND CAUSES OF ACTION.

IF ANY OF THE PROVISIONS OF THIS AGREEMENT ARE HELD INVALID FOR ANY REASONS, THE REMAINDER OF THIS AGREEMENT WILL NOT BE AFFECTED AND WILL REMAIN IN FULL FORCE AND EFFECT.

26-24. Assignor and Assignee hereby agree to protect, defend and indemnify each of the Franchisor Affiliates and hold them harmless from and against any and all costs and expenses actually incurred by them or for which they are liable, including, without limitation, attorney's fees, court costs, expert witness fees and costs, losses, liabilities, damages, claims and demands of every kind or nature, and including those incurred pursuant to a settlement entered into in good faith, arising out of or in connection with the Franchised Business, including specifically without limitation any claim or controversy arising out of (i) this Agreement, (ii) the Franchise Agreement, (iii) Sublease and/or Master Lease, (iv) any transfer of the Franchised Business by Assignee or Assignor, (v) acts or omissions of Assignee and/or Assignor which are not in strict compliance with this Agreement, the Franchise Agreement, Sublease and/or the Operations Manual in respect of use or display of the Proprietary Marks, or (vi) acts or omissions of Assignee and/or Assignor which tend to create an impression that the relationship between the parties hereto is other than one of Franchisor and Franchisee. Franchisor Affiliates, at their sole discretion, may hire legal counsel to defend any actions brought against any Franchisor Affiliates which arise out of Assignor's obligations under all agreements entered into between Assignor and any of the Franchisor Affiliates, including, without limitation, this Agreement, and Assignee's obligations herein. Assignor and Assignee hereby agree to pay any and all attorneys' fees, expert costs, and any other fees and costs incurred by any Franchisor Affiliates to said selected counsel upon the request of any Franchisor Affiliates. Assignor and Assignee will, if requested by any Franchisor Affiliates, defend any suits at the sole cost and expense of Assignor and Assignee through the use of attorneys determined by Franchisor Affiliates. For purposes of this provision, requests shall be made pursuant to the notice provisions set forth in this Agreement. Notwithstanding the other provisions of this Section to the contrary, if any, except as otherwise specified in this Agreement, Assignor shall not be responsible for any of the acts or omissions of Assignee after the Effective Date.

27-25. Assignor agrees for itself and its successors and assigns that it will not disparage, denigrate or, defame the Franchisor Affiliates, or any of their business dealings, financial condition, pending litigation and arbitrations, officers, directors, employees, agents, representatives or attorneys, either publicly or privately, by any means whatsoever (including electronic means) (collectively, "Non Disparagement Provision"). In the event such a communication is made to anyone, including, but not limited to, third party legal counsel adverse to Franchisor Affiliates in any fashion, former employees of Franchisor Affiliates, former shareholders of Franchisor Affiliates, current or former vendors, franchisees, licensees, or area representatives of Franchisor Affiliates' quick service restaurant brands, media government agencies, public interest groups, and publishing

companies, it will be considered a material breach of the terms of this Agreement and Franchisor Affiliates shall be entitled to bring a legal action for appropriate equitable relief as well as damages. In addition to any other rights or remedies available at law, in equity, or by statute, Assignor consents to the specific enforcement of this Non Disparagement Provision through an injunction or restraining order issued by an appropriate court, without the requirement of posting a bond. Notwithstanding the above, nothing in this provision shall prevent or prohibit Assignor from testifying in any legal proceeding, including a deposition, hearing or trial, from cooperating in good faith in any governmental investigation or action, or from making any report required by law.

~~28-26.~~ Each individual executing this Agreement on behalf of a partnership, limited liability company or corporation represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of the partnership, limited liability company, or corporation, and agrees to deliver evidence of his or her authority to Company upon request by Company.

~~29-27.~~ The provisions of this Agreement are severable, and if any one or more provisions may be determined to be unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. If the provision found to be unenforceable was material to this Agreement, the parties agree to promptly negotiate the terms of a substitute provision to replace the severed provision consistent with the then-current law and the parties' original intent.

~~30-28.~~ This Agreement shall be construed under and according to the laws of the State of Arizona, without regard to conflict of laws principles.

~~31-29.~~ ANY AND ALL COURT PROCEEDINGS ARISING FROM THIS AGREEMENT SHALL BE BROUGHT IN, AND ONLY IN, THE COUNTY AND STATE WHERE THE FRANCHISED BUSINESS IS LOCATED ~~A COURT OF COMPETENT JURISDICTION LOCATED IN MARICOPA COUNTY, ARIZONA.~~ THE PARTIES CONSENT TO THE EXERCISE OF SUBJECT MATTER AND PERSONAL JURISDICTION BY SUCH COURTS AND HEREBY WAIVE ANY OBJECTIONS OR DEFENSE THERETO.

~~32-30.~~ This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signatures required for execution may be transmitted to the other party via facsimile or a scanned .pdf file sent via email and such signature shall be deemed a duplicate original, shall be effective upon receipt by the other party, may be admitted in evidence and shall fully bind the party and person making such signature.

~~33-31.~~ No amendment, addendum, modification, supplement or waiver of this Agreement or any of its provisions shall be binding on the parties unless made in writing and duly executed by an authorized representative of Company and Assignor and Assignee. A failure of any party to enforce at any time any of the provisions of this Agreement or to require at any time performance by another party or any provision of this Agreement, shall in no way be construed as a continuing waiver of those provisions or of any other rights under this Agreement.

~~34-32.~~ Except as otherwise specified in this Agreement, this Agreement shall not be construed in any way as modifying, waiving, or affecting any of the terms, covenants, conditions, or agreements contained in the Franchise Agreement and Sublease executed by Assignor, or the current form of franchise agreement or sublease to be executed by Assignee.

~~35-33.~~ This Agreement shall inure to the benefit of and shall be binding upon each of the parties hereto and their respective successors and assigns.

**[SIGNATURE PAGE FOLLOWS]**

## ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF CALIFORNIA)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF CALIFORNIA) ("Addendum") dated \_\_\_\_\_ ("Addendum Effective Date") to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated \_\_\_\_\_, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between \_\_\_\_\_ ("Franchisee") and MTY FRANCHISING USA, INC., a Tennessee corporation ("Franchisor") [and LEASING ENTITY, a[n] \_\_\_\_\_ "Sublessor"] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

### 1. CALIFORNIA LAW MODIFICATIONS

- A. The California Franchise Investment Law requires that a copy of all proposed agreements relating to the sale of the franchise be delivered together with the Disclosure Document.
- B. 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.).
- C. The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California Law.
- ~~D. The Franchise Documents may require application of the laws of the State of Arizona. Any provision that does may not be enforceable under California Law.~~
- DE. Section 31125 of the California Corporations Code requires us to give you a Disclosure Document, in a form containing the information that the Commissioner may by rule or order require, before a solicitation of a proposed material modification of an existing franchise.
- EF. California Corporations Code §31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code §§31000 through 31516). Business and Professions Code §20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code §§20000 through 20043).
- EG. The Franchise Agreement requires binding arbitration. ~~The arbitration will occur at the American Arbitration Association office in Maricopa County, Arizona, or, if our headquarters are no longer located in Maricopa County, Arizona, then the arbitration shall take place in the county in which our headquarters are located at the time the arbitration is commenced,~~ with *all of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorney's fees of the prevailing party* to be paid by the party that did not prevail. Prospective franchisees are encouraged to consult

private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

| GH. California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning transfer, termination or non-renewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law will control.

H. If the franchisee resides in the State of California or the franchised business is located within the State of California, the venue for any dispute may be within the State of California. Business and Professions Code Section 20040.5 voids restricting a venue to a forum outside California with respect to any claim arising under or relating to a franchise involving a franchise business operating in California.

| IJ. 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.

| JK. **OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT. ANY COMPLAINTS CONCERNING THE CONTENTS OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT at [www.dbo.ca.gov](http://www.dbo.ca.gov).**

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the California law applicable to the provision are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

**[SIGNATURE PAGE FOLLOWS]**

- e. If the Franchise Documents requires litigation/arbitration to be conducted in a forum other than the State of Indiana, the requirement may be unenforceable as a limitation on litigation under the Indiana Deceptive Franchise Practices Act §§ 23-2.2.7(10).
- f. If the Franchise Documents requires that it be governed by a state's law, other than the State of Indiana, to the extent that such law conflicts with the Indiana Deceptive Franchise Practices Act and the Indiana Franchises Act, the Acts will control.
- g. The Indiana Deceptive Franchise Practices Act provides rights to Franchisee concerning the waiver of claims or rights. To the extent the Franchise Documents contains a provision that is inconsistent with the Act, the Act will control.
- h. The Indiana Deceptive Franchise Practices Act provides rights to Franchisee concerning the time period to bring an action against the Franchisor. To the extent the Agreement contains a provision that is inconsistent with the Act, the Act will control.
- i. The Indiana Deceptive Franchise Practices Act prohibits the Franchisor from operating a substantially identical business to that of the Franchisee's within the Franchisee's territory, regardless of trade name. To the extent the Agreement contains a provision that is inconsistent with the Act, the Act will control.
- j. The Indiana Deceptive Franchise Practice Act excludes any indemnification for liability caused by the Franchisee's proper reliance on or use of procedures or materials provided by the Franchisor. To the extent the Agreement contains a provision that is inconsistent with the Act, the Act will control.
- k. If the Franchise Agreement requires goods, supplies, inventories, or services to be purchased exclusively from the franchisor or sources designated by the franchisor where such goods, supplies, inventories or services of comparable quality are available from sources other than those designated by the franchisor, to the extent that such law conflicts with the Indiana Deceptive Franchise Practices Act and the Indiana Franchises Act, the Acts will control. Providing a list of approved suppliers to comply with specifications and standards prescribed by Franchisor does not constitute designation of a source under the Indiana Deceptive Franchise Practices Act.
- l. 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.
- m. If the Franchise Documents require Franchisee to participate in any advertising campaign or contest, promotional campaign, promotional

materials, or display decorations or materials, then the maximum amount the Franchisee may be required to pay is \$35,000 per calendar year, and if the Franchisee's participation in any advertising campaign or contest, promotional campaign, promotional materials, or display decorations or materials would require the Franchisee to pay in excess of that amount, such participation by the Franchisee will be optional for the remainder of that calendar year.

2. Indiana Code § 23-2-2.5-9(2) requires us to give you a copy of the Franchise Disclosure Document at the earlier of: (i) 10 days prior to signing the Agreement; or (ii) 10 days prior to our receipt of any consideration.

3. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Indiana Deceptive Practices Act and the Indiana Franchises Act, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, has duly executed and delivered this Addendum as of the Addendum Effective Date.

**FRANCHISOR:**

MTY FRANCHISING USA, INC., a Tennessee corporation

By: \_\_\_\_\_  
[Name, Title]

**FRANCHISEE:**

\_\_\_\_\_,  
\_\_\_\_\_

By: \_\_\_\_\_  
[Name, Title]

**[SUBLESSOR:**

\_\_\_\_\_,  
\_\_\_\_\_

By: \_\_\_\_\_  
[Name, Title]

By: \_\_\_\_\_  
[Name, Title]

**WASHINGTON ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT, THE  
FRANCHISE AGREEMENT, AND ALL RELATED AGREEMENTS**

The provisions of this Addendum form an integral part of, are incorporated into, and modify the Franchise Disclosure Document, the franchise agreement, and all related agreements regardless of anything to the contrary contained therein. This addendum applies if: (a) the offer to sell a franchise is accepted in Washington; (b) the purchaser of the franchise is a resident of Washington; and/or (c) the franchised business that is the subject of the sale is to be located or operated, wholly or partly, in Washington.

1. **Conflict of Laws.** In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, chapter 19.100 RCW will prevail.
2. **Franchisee Bill of Rights.** RCW 19.100.180 may supersede provisions in the franchise agreement or related agreements concerning your relationship with the franchisor, including in the areas of termination and renewal of your franchise. There may also be court decisions that supersede the franchise agreement or related agreements concerning your relationship with the franchisor. Franchise agreement provisions, including those summarized in Item 17 of the Franchise Disclosure Document, are subject to state law.
3. **Site of Arbitration, Mediation, and/or Litigation.** In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.
4. **General Release.** A release or waiver of rights in the franchise agreement or related agreements purporting to bind the franchisee to waive compliance with any provision under the Washington Franchise Investment Protection Act or any rules or orders thereunder is void except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2). In addition, any such release or waiver executed in connection with a renewal or transfer of a franchise is likewise void except as provided for in RCW 19.100.220(2).
5. **Statute of Limitations and Waiver of Jury Trial.** Provisions contained in the franchise agreement or related agreements that unreasonably restrict or limit the statute of limitations period for claims under the Washington Franchise Investment Protection Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.
6. **Transfer Fees.** Transfer fees are collectable only to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.
7. **Termination by Franchisee.** The franchisee may terminate the franchise agreement under any grounds permitted under state law.

8. **Certain Buy-Back Provisions.** Provisions in franchise agreements or related agreements that permit the franchisor to repurchase the franchisee's business for any reason during the term of the franchise agreement without the franchisee's consent are unlawful pursuant to RCW 19.100.180(2)(j), unless the franchise is terminated for good cause.
9. **Fair and Reasonable Pricing.** Any provision in the franchise agreement or related agreements that requires the franchisee to purchase or rent any product or service for more than a fair and reasonable price is unlawful under RCW 19.100.180(2)(d).
10. **Waiver of Exemplary & Punitive Damages.** RCW 19.100.190 permits franchisees to seek treble damages under certain circumstances. Accordingly, provisions contained in the franchise agreement or elsewhere requiring franchisees to waive exemplary, punitive, or similar damages are void, except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2).
11. **Franchisor's Business Judgement.** Provisions in the franchise agreement or related agreements stating that the franchisor may exercise its discretion on the basis of its reasonable business judgment may be limited or superseded by RCW 19.100.180(1), which requires the parties to deal with each other in good faith.
12. **Indemnification.** Any provision in the franchise agreement or related agreements requiring the franchisee to indemnify, reimburse, defend, or hold harmless the franchisor or other parties is hereby modified such that the franchisee has no obligation to indemnify, reimburse, defend, or hold harmless the franchisor or any other indemnified party for losses or liabilities to the extent that they are caused by the indemnified party's negligence, willful misconduct, strict liability, or fraud.
13. **Attorneys' Fees.** If the franchise agreement or related agreements require a franchisee to reimburse the franchisor for court costs or expenses, including attorneys' fees, such provision applies only if the franchisor is the prevailing party in any judicial or arbitration proceeding.
14. **Noncompetition Covenants.** Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). 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 provision contained in the franchise agreement or elsewhere that conflicts with these limitations is void and unenforceable in Washington.
15. **Nonsolicitation Agreements.** RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.
16. **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.

**17. Prohibitions on Communicating with Regulators.** Any provision in the franchise agreement or related agreements that prohibits the franchisee from communicating with or complaining to regulators is inconsistent with the express instructions in the Franchise Disclosure Document and is unlawful under RCW 19.100.180(2)(h).

**18. Advisory Regarding Franchise Brokers.** Under the Washington Franchise Investment Protection Act, a "franchise broker" is defined as a person that engages in the business of the offer or sale of franchises. A franchise broker represents the franchisor and is paid a fee for referring prospects to the franchisor and/or selling the franchise. If a franchisee is working with a franchise broker, franchisees are advised to carefully evaluate any information provided by the franchise broker about a franchise.

The undersigned parties do hereby acknowledge receipt of this Addendum.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**ADDENDUM TO FRANCHISE DOCUMENTS**  
(FOR THE STATE OF WASHINGTON)

~~The state of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Documents 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 Documents in your relationship with the Franchisor, including the areas of termination and renewal of your Franchise.~~

~~1. If any provisions governing termination or non-renewal disclosed herein are inconsistent with Washington law, then Washington law shall apply. The applicable law reads as follows:~~

~~Section 19.100.180. Without limiting the other provisions of this chapter, the following specific rights and prohibitions shall govern the relation between the franchisor or subfranchisor and the franchisees:~~

~~(2) For the purpose of this chapter and without limiting its general application, it shall be an unfair or deceptive act or practice or an unfair method of competition and therefore unlawful and violation of this chapter for any person to:~~

~~(a) Restrict or inhibit the right of the franchisees to join an association of franchisees.~~

~~(b) Require a franchisee to purchase or lease goods or services of the franchisor or from approved sources of supply unless and to the extent that the franchisor satisfies the burden of proving that such restrictive purchasing agreements are reasonably necessary for a lawful purpose~~

~~justified on business grounds, and do not substantially affect competition: PROVIDED, That this provision shall not apply to the initial inventory of the franchise. In determining whether a requirement to purchase or lease goods or services constitutes an unfair or deceptive act or practice or an unfair method of competition the courts shall be guided by the decisions of the courts of the United States interpreting and applying the anti-trust laws of the United States.~~

~~\_\_\_\_\_ (c) Discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is: (i) Reasonable, (ii) based on franchises granted at materially different times and such discrimination is reasonably related to such difference in time, or is based on other proper and justifiable distinctions considering the purposes of this chapter, and (iii) is not arbitrary. However, nothing in (c) of this subsection precludes negotiation of the terms and conditions of a franchise at the initiative of the franchisees.~~

~~\_\_\_\_\_ (d) Sell, rent, or offer to sell to a franchisee any product or service for more than a fair and reasonable price.~~

~~\_\_\_\_\_ (e) Obtain money, goods, services, anything of value, or any other benefit from any other person with whom the franchisee does business on account of such business unless such benefit is disclosed to the franchisee.~~

~~\_\_\_\_\_ (f) If the franchise provides that the franchisee has an exclusive territory, which exclusive territory shall be specified in the franchise agreement, for the franchisor or subfranchisor to compete with the franchisee in an exclusive territory or to grant competitive franchises in the exclusive territory area previously granted to another franchisee.~~

~~\_\_\_\_\_ (g) Require franchisee to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by this chapter, except as otherwise permitted by RCW 19.100.220.~~

~~\_\_\_\_\_ (h) Impose on a franchisee by contract, rule, or regulation, whether written or oral, any standard of conduct unless the person so doing can sustain the burden of proving such to be reasonable and necessary.~~

~~\_\_\_\_\_ (i) Refuse to renew a Franchise Agreement without fairly compensating the franchisee for the fair market value, at the time of expiration of the Franchise Agreement, or the franchisee's inventory, supplies, equipment, and furnishings purchased from the franchisor and good will, exclusive of personalized materials which have no value to the franchisor, and inventory, supplies, equipment and furnishings not reasonably required in the conduct of the franchised business: PROVIDED, that compensation need not be made to a franchisee for good will if: (i) the franchisee has been given one year's notice of nonrenewal; and (ii) the franchisor agrees in writing not to enforce any covenant which restrains the franchisee from competing with the franchisor: PROVIDED FURTHER, that a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to franchisor.~~

~~\_\_\_\_\_ (j) Terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include, without limitation, the failure of the franchisee to comply with lawful material provisions of the franchise or other agreement between the franchisor and the franchisee and to cure such default after being given written notice thereof and a reasonable opportunity, which in no event need be more than thirty days, to cure such default, or if such default cannot reasonably be cured~~

~~within thirty days, the failure of the franchisee to initiate within thirty days substantial and continuing action to cure such default: PROVIDED, that after three willful and material breaches of the same term of the Franchise Agreement occurring within a twelve month period, for which the franchisee has been given notice and an opportunity to cure as provided in this subsection, the franchisor may terminate the Franchise Agreement upon any subsequent month period without providing notice or opportunity cure: PROVIDED FURTHER, that a franchisor may terminate a Franchise Agreement without prior notice or opportunity to cure a default if the franchisee: (i) is adjudicated bankrupt or insolvent; (ii) makes an assignment for the benefit of creditors or similar disposition of the assets of the franchised business; (iii) voluntarily abandons the franchised business; or (iv) is convicted of or pleads guilty or no contest to a charge of violating any law relating to the franchised business. Upon termination for good cause the franchisor shall purchase from the franchisee at a fair market value at the time of termination, the franchisee's inventory and supplies, exclusive of: (i) personalized materials which have no value to the franchisor; (ii) inventory and supplies not reasonably required in the conduct of the franchised business; and (iii) if the franchisee is to retain control of the premises of the franchised business, any inventory and supplies not purchased from the franchisor or on his express requirement: PROVIDED, that a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor."~~

~~2. In any arbitration involving a franchise purchased in Washington, the arbitration site shall be either in the State of Washington or in a place mutually agreed upon at the time of the arbitration, or as determined by the arbitrator.~~

~~3. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.~~

~~4. A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act, 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.~~

~~5. Transfer fees are collectable to the extent that they reflect the Franchisor's reasonable estimated or actual costs in effecting a transfer.~~

~~6. 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.~~

~~Each provision of this Addendum to Franchise Documents shall be effective only to the extent that the jurisdictional requirements of the Washington law applicable to the provision are met independent of this Addendum. This Addendum to Franchise Documents shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum to Franchise Documents, the terms and provisions of the Franchise Documents shall remain in full force and effect.~~

~~IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without~~

further consent or approval of any kind, have duly executed and delivered this Addendum to the Franchise Documents on \_\_\_\_\_.

**FRANCHISOR:**

MTY FRANCHISING USA, INC., a Tennessee  
corporation

By: \_\_\_\_\_  
[Name, Title]

**FRANCHISEE:**

\_\_\_\_\_,  
\_\_\_\_\_

By: \_\_\_\_\_  
[Name, Title]

By: \_\_\_\_\_  
[Name, Title]

**[SUBLESSOR:**

\_\_\_\_\_, a[n]  
\_\_\_\_\_

By: \_\_\_\_\_]  
[Name, Title]

Built Franchise List as of November 30, ~~2024~~2025

The name of the franchisee, store address and telephone numbers of the stores are listed below:

| Franchise Company                          | Franchisee Name | Address                     | City        | State | Zip   | Phone or Email              |
|--------------------------------------------|-----------------|-----------------------------|-------------|-------|-------|-----------------------------|
| DN TUS, LLC                                | Sean Murphy     | 7250 South Tucson Boulevard | Tucson      | AZ    | 85756 | smurphy2@delaware north.com |
| Crews LAX2, LLC and Crews California, Inc. | Robert Crews    | 200 World Way, Terminal 2   | Los Angeles | CA    | 90045 | 424-702-4594                |

Built Franchisees who have signed Franchise Agreements but whose stores were not open as of November 30, ~~2024~~2025:

| Franchise Company       | Owners                      | Address                        | City   | State | Zip   | Phone        |
|-------------------------|-----------------------------|--------------------------------|--------|-------|-------|--------------|
| Sukman Baba Investments | Sukhi Sandhu, Ranjit Sandhu | 2050 East Pleasant Valley Road | Oxnard | CA    | 93033 | 805-638-5111 |

The name, city, state and current business telephone number (or if unknown, the last known home telephone number) of every franchisee who had a business terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business during the most recently completed fiscal year:

| Company Name     | Owner Names  | Owner City  | Owner State | Owner Phone  |
|------------------|--------------|-------------|-------------|--------------|
| MV Counter, Inc. | Mukesh Kumar | Santa Clara | CA          | 408-234-1502 |

Built Franchisees who had an outlet transfer during the year ending November 30, ~~2024~~2025:

| <del>Prior Company Name</del> | <del>Prior Franchisee Names</del> | <del>Prior Franchisee City</del> | <del>Prior Franchisee State</del> | <del>Prior Franchisee Phone</del> |
|-------------------------------|-----------------------------------|----------------------------------|-----------------------------------|-----------------------------------|
| Counter-Intelligence LLC      | Peter Katz                        | San Carlos                       | CA                                | 650-654-8900                      |

None

## RECEIPT #1

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 MTY Franchising USA, Inc. offers you a franchise, it must provide this disclosure document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

**[New York requires that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.]**

**[Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.]**

If MTY Franchising USA, Inc. does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC 20580 and the state agency listed on Exhibit B.

The franchisor is MTY Franchising USA, Inc., located at 9311 E. Via De Ventura, Scottsdale, Arizona 85258. Its telephone number is (480) 362-4800. The franchise seller for this offering is \_\_\_\_\_, (\_\_\_\_) \_\_\_\_\_.

Issuance date: March 27~~8~~, 202~~6~~5, as amended October 10, 2025.

MTY Franchising USA, Inc. authorizes the respective state agencies identified on Exhibit C to receive service of process for it in the particular state.

I received a Built Custom Burgers Disclosure Document dated March 27~~8~~, 202~~6~~5, as amended October 10, 2025, that included the following Exhibits:

|     |                                                                                                                                                   |     |                                                                         |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------------------------------------------------------------------------|
| A   | State Addenda to Franchise Disclosure Document                                                                                                    | M   | Lease Guaranty Acknowledgement                                          |
| B   | Directory of State Agencies and Administrators                                                                                                    | N   | Lease Review and/or Negotiation Agreement and Release and State Addenda |
| C   | Franchisor's Agent for Service of Process                                                                                                         | O   | Sublease and Guaranty of Sublease                                       |
| D   | Asset Purchase Agreement (For Sale of a Corporate Store to a Franchisee) with Promissory Note and Security Agreement and Guaranty (if applicable) | P   | Pre-Authorized Electronic Funds Transfer Form                           |
| E-1 | Franchise Agreement (New)                                                                                                                         | P-1 | Gift Card Participation Agreement                                       |
| E-2 | Franchise Agreement (Renewal)                                                                                                                     | Q   | General Release for Renewal of Franchise Agreement                      |
| E-3 | Franchise Agreement (Transfer)                                                                                                                    | R-1 | Consent to Transfer and Release Agreement (without Sublease)            |
| F-1 | Guaranty of Franchise Agreement                                                                                                                   | R-2 | Consent to Transfer and Release Agreement (with Sublease)               |
| F-2 | Non-Disclosure and Non-Competition Agreement                                                                                                      | S   | State Specific Addenda to Franchise Documents                           |
| G   | Collateral Assignment and Irrevocable Special Power of Attorney                                                                                   | T   | Table of Contents – Confidential Operations Manual                      |
| H   | Amendment to Franchise Agreement (for non-traditional locations excluding those co-branded with another affiliated brand)                         | U   | List of Franchise Owners                                                |
| I   | Amendment to Franchise Agreement (for co-branded non-traditional locations)                                                                       | V   | Financial Statements                                                    |
| J   | In-Store Training Release and Waiver of Liability Agreement                                                                                       | W   | Intentionally Omitted                                                   |
| K   | Addendum to the Franchise Agreement for SBA Loans                                                                                                 | X   | Addendum for Sale of Company-Affiliated Owned Stores                    |
| L   | Required Lease Terms (Lease Addendum to Lease Agreement)                                                                                          | X-1 | State Effective Dates                                                   |
|     |                                                                                                                                                   | Y   | Receipts                                                                |
|     |                                                                                                                                                   |     |                                                                         |

Date: \_\_\_\_\_  
(Do not leave blank)

\_\_\_\_\_  
Signature of Prospective Franchisee

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

Receipt #1 must be signed and dated and remains in the Franchise Disclosure Document as the prospective franchisee's copy. Receipt #2 must be signed and dated by the prospective franchisee and returned to MTY Franchising USA, Inc. by mailing it to MTY Franchising USA, Inc. at 9311 E. Via De Ventura, Scottsdale, Arizona 85258.

## RECEIPT #2

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 MTY Franchising USA, Inc. offers you a franchise, it must provide this disclosure document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

**[New York requires that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.]**

**[Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.]**

If MTY Franchising USA, Inc. does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC 20580 and the state agency listed on Exhibit B.

The franchisor is MTY Franchising USA, Inc., located at 9311 E. Via De Ventura, Scottsdale, Arizona 85258. Its telephone number is (480) 362-4800. The franchise seller for this offering is \_\_\_\_\_, (\_\_\_\_) \_\_\_\_\_.

Issuance date: March 27~~8~~, 202~~6~~5, as amended October 10, 2025.

MTY Franchising USA, Inc. authorizes the respective state agencies identified on Exhibit C to receive service of process for it in the particular state.

I received a Built Custom Burgers Disclosure Document dated March 27~~8~~, 202~~6~~5, as amended October 10, 2025, that included the following Exhibits:

|     |                                                                                                                                                   |     |                                                                         |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------------------------------------------------------------------------|
| A   | State Addenda to Franchise Disclosure Document                                                                                                    | M   | Lease Guaranty Acknowledgement                                          |
| B   | Directory of State Agencies and Administrators                                                                                                    | N   | Lease Review and/or Negotiation Agreement and Release and State Addenda |
| C   | Franchisor's Agent for Service of Process                                                                                                         | O   | Sublease and Guaranty of Sublease                                       |
| D   | Asset Purchase Agreement (For Sale of a Corporate Store to a Franchisee) with Promissory Note and Security Agreement and Guaranty (if applicable) | P   | Pre-Authorized Electronic Funds Transfer Form                           |
| E-1 | Franchise Agreement (New)                                                                                                                         | P-1 | Gift Card Participation Agreement                                       |
| E-2 | Franchise Agreement (Renewal)                                                                                                                     | Q   | General Release for Renewal of Franchise Agreement                      |
| E-3 | Franchise Agreement (Transfer)                                                                                                                    | R-1 | Consent to Transfer and Release Agreement (without Sublease)            |
| F-1 | Guaranty of Franchise Agreement                                                                                                                   | R-2 | Consent to Transfer and Release Agreement (with Sublease)               |
| F-2 | Non-Disclosure and Non-Competition Agreement                                                                                                      | S   | State Specific Addenda to Franchise Documents                           |
| G   | Collateral Assignment and Irrevocable Special Power of Attorney                                                                                   | T   | Table of Contents – Confidential Operations Manual                      |
| H   | Amendment to Franchise Agreement (for non-traditional locations excluding those co-branded with another affiliated brand)                         | U   | List of Franchise Owners                                                |
| I   | Amendment to Franchise Agreement (for co-branded non-traditional locations)                                                                       | V   | Financial Statements                                                    |
| J   | In-Store Training Release and Waiver of Liability Agreement                                                                                       | W   | Intentionally Omitted                                                   |
| K   | Addendum to the Franchise Agreement for SBA Loans                                                                                                 | X   | Addendum for Sale of Company-Affiliated Owned Stores                    |
| L   | Required Lease Terms (Lease Addendum to Lease Agreement)                                                                                          | X-1 | State Effective Dates                                                   |
|     |                                                                                                                                                   | Y   | Receipts                                                                |
|     |                                                                                                                                                   |     |                                                                         |

Date: \_\_\_\_\_  
(Do not leave blank)

\_\_\_\_\_  
Signature of Prospective Franchisee

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

Receipt #1 must be signed and dated and remains in the Franchise Disclosure Document as the prospective franchisee's copy. Receipt #2 must be signed and dated by the prospective franchisee and returned to MTY Franchising USA, Inc. by mailing it to MTY Franchising USA, Inc. at 9311 E. Via De Ventura, Scottsdale, Arizona 85258.