

FRANCHISE DISCLOSURE DOCUMENT

Wild Birds Unlimited, Inc.
11711 N. College Avenue, Suite 146
Carmel, Indiana 46032
(317) 571-7100
www.wbu.com



A WILD BIRDS UNLIMITED[®] franchisee operates a retail store (“Store”) that sells birdfeeders, birdseed and nature-related gifts.

The total investment necessary to begin operation of a WILD BIRDS UNLIMITED Store is from \$95,273 to \$161,837 for a new franchisee (\$83,773 to \$150,337 for an existing franchisee who is purchasing an additional WILD BIRDS UNLIMITED franchise). This includes an amount of \$23,563 that must be paid to the franchisor.

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

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

Buying a franchise is a complex investment. The information in this Disclosure Document can help you make up your mind. More information on franchising, such as “A Consumer’s Guide to Buying a Franchise,” which can help you understand how to use this Disclosure Document is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue NW, Washington, DC 20580. You can also visit the FTC’s home page at www.ftc.gov for additional information on franchising.

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

Issuance Date: February 26, 2013

STATE COVER PAGE

Your state may have a franchise law that requires a franchisor to register or file with a state franchise administrator before offering or selling in your state. REGISTRATION OF A FRANCHISE BY A STATE DOES NOT MEAN THAT THE STATE RECOMMENDS THE FRANCHISE OR HAS VERIFIED THE INFORMATION IN THIS DISCLOSURE DOCUMENT.

Call the state franchise administrator listed in Exhibit A for information about the franchisor, about other franchisors, or about franchising in your state.

MANY FRANCHISE AGREEMENTS DO NOT ALLOW YOU TO RENEW UNCONDITIONALLY AFTER THE INITIAL TERM EXPIRES. YOU MAY HAVE TO SIGN A NEW AGREEMENT WITH DIFFERENT TERMS AND CONDITIONS IN ORDER TO CONTINUE TO OPERATE YOUR BUSINESS. BEFORE YOU BUY, CONSIDER WHAT RIGHTS YOU HAVE TO RENEW YOUR FRANCHISE, IF ANY, AND WHAT TERMS YOU MIGHT HAVE TO ACCEPT IN ORDER TO RENEW.

Please consider the following RISK FACTORS before you buy this franchise.

1. THE FRANCHISE AGREEMENT STATES THAT THE LAWS OF THE STATE OF THE LOCATION OF YOUR STORE GOVERN THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW, WHICH MAY SUPERSEDE IT. YOU MAY WANT TO COMPARE THESE LAWS. PLEASE REFER TO ANY STATE-SPECIFIC ADDENDUM THAT MAY BE ATTACHED TO THE DISCLOSURE DOCUMENT FOR DETAILS.
2. THE FRANCHISE AGREEMENT PERMITS YOU TO SUE OR ARBITRATE WITH US ONLY IN INDIANA. OUT OF STATE LITIGATION OR ARBITRATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST MORE TO SUE OR ARBITRATE WITH US IN INDIANA THAN IN YOUR HOME STATE.
3. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

We may use the services of one or more FRANCHISE BROKERS or referral sources to assist us in selling our franchise. A franchise broker or referral source represents us, not you. We pay this person a fee for selling our franchise or referring you to us. You should be sure to do your own investigation of the franchise.

Registration State Effective Dates: See following page.

STATE EFFECTIVE DATES

The following states require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

This Franchise Disclosure Document is registered, on file or exempt from registration in the following states having franchise registration and disclosure laws, with the following effective dates:

CALIFORNIA	
ILLINOIS	February 28, 2013
INDIANA	
MARYLAND	
MICHIGAN	February 28, 2013
MINNESOTA	
NEW YORK	
NORTH DAKOTA	
RHODE ISLAND	
SOUTH DAKOTA	February 28, 2013
VIRGINIA	
WASHINGTON	
WISCONSIN	February 28, 2013

**NOTICE REQUIRED
BY
STATE OF MICHIGAN**

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

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

- (a) A prohibition on the right of a franchisee to join an association of franchisees.
- (b) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (i) the term of the franchise is less than 5 years and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of franchisor's intent not to renew the franchise.
- (e) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:
 - (i) The failure of the proposed transferee to meet the franchisor's then-current reasonable qualifications or standards.
 - (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.

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

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

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

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

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

Any questions regarding this notice should be directed to the Department of Attorney General, State of Michigan, 670 Williams Building, Lansing, Michigan 48909, telephone (517) 373-7117.

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

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EXHIBITS:

- A. State Agencies and Agents for Service of Process
- B. Reservation Agreement
- C. Franchise Agreement (including Appendices)
- D. Initial Franchise Fee Amendment (Additional Store)
- E. Authorization and Gift Card Participation Agreement
- F. List of Existing Franchisees and Terminated Franchisees and those who have otherwise left the System
- G. Financial Statements
- H-1. Checklist of Mutual Understanding (New Franchisee)
- H-2. Checklist of Mutual Understanding (Renewal Franchisee)
- I. Daily Savings Club[®] Enrollment Form
- J. Form of General Release
- K. Receipts

ITEM 1

The Franchisor and Any Parents, Predecessors and Affiliates

The franchisor is Wild Birds Unlimited, Inc. To simplify the language in this Disclosure Document, “we,” “us,” or “Wild Birds Unlimited” means Wild Birds Unlimited, Inc. “You” means the person who buys the franchise. If you are a corporation, limited liability company, partnership, or other legal entity, certain provisions of the Franchise Agreement also apply to your owners and will be noted.

WILD BIRDS UNLIMITED was incorporated in Indiana on June 8, 1983. Our principal place of business is 11711 N. College Avenue, Suite 146, Carmel, Indiana 46032; telephone: (317) 571-7100; website: www.wbu.com.

We have no parents, predecessors or affiliates.

Our Business Experience

We have franchised retail stores that sell birdfeeders, birdseed and nature-related gifts since 1983. We do not conduct any business activities other than the operation and administration of our franchise system as described in this Disclosure Document. We do not offer, and have not offered, franchises in any other line of business. As of the date of this Disclosure Document, we do not operate corporate stores, although we may do so in the future. In early 1989, we began offering franchises in Canada under the Wild Birds Nature Shop trademark. By June 30, 1995, all Canadian stores had converted to the WILD BIRDS UNLIMITED[®] trademark.

Our agents for service of process are disclosed in Exhibit A.

In the past, we offered to existing franchisees the opportunity to operate, on a test basis, a small-sized WILD BIRDS UNLIMITED outlet, such as a kiosk or a gift shop, located within a nature center (such as a state or city park) or other appropriate retail outlet (such as a garden center). The outlet offered a selection of WILD BIRDS UNLIMITED merchandise. As of December 31, 2012, eight test locations remain open and operating. As of the date of this Disclosure Document, we no longer promote this test project. We may reinstate the test project at a later date.

The Franchise Offered

We grant you the right to operate a WILD BIRDS UNLIMITED retail store (the “Store”). You and your staff need to be birdfeeding hobbyists and nature enthusiasts, thoroughly trained in the hobby of backyard birdfeeding. Your Store will offer a retail experience that helps customers enjoy wild birds and increases their enjoyment of nature by providing advice, top quality products, and a pleasant shopping experience. Each store operates under the name WILD BIRDS UNLIMITED and other marks we designate (the “Marks”). You must operate your Store under the WILD BIRDS UNLIMITED system (“System”) and in accordance with our specified standards. The System is characterized by distinctive product, layout and decor, all of which we may change. Your Store typically will have 1,400 to 1,700 square feet.

Before executing a Franchise Agreement, you may choose to sign a Reservation Agreement to reserve a geographic area within which you will locate your store. The Reservation Agreement territory may be larger than the territory granted in the Franchise Agreement (“Designated Territory”), which is signed at a later date. No other franchise will be granted within the geographic area that you have reserved for a period of 6 months after you have signed the Reservation Agreement. If you do not sign a franchise agreement within 6 months of signing the Reservation Agreement, the Reservation Agreement will expire. Although you do not have an automatic right of renewal, we may, at our option, renew the Reservation Agreement for one additional period of 6 months.

As described in this Disclosure Document, we offer discounts on the Initial Franchise Fee and other fees (such as the Training Fee) to existing WILD BIRDS UNLIMITED franchisees that wish to open one or more additional stores with us. If you are an existing WILD BIRDS UNLIMITED franchisee, these discounted fees will apply to your purchase of franchise rights for an additional WILD BIRDS UNLIMITED store.

Market and Competition

The market for birdfeeders, birdseed and nature-related gift items is a developed market. Our customers are primarily backyard birdfeeding and bird watching hobbyists and persons interested in purchasing nature-related gift items. You may compete with other businesses offering similar products, including garden and hardware stores, and other franchise systems offering franchises similar to those which we offer. The competition will vary depending upon the city and location where you operate your store.

Industry-Specific Regulations

In addition to laws and regulations that apply to businesses generally, your Store will be subject to various federal, state and local government regulations, including site location and building construction, such as the American’s with Disabilities Act. Your Store also must comply with all applicable product-related laws and regulations including, for example, the Consumer Product Safety Improvement Act and the Food Safety Modernization Act. Also, most states have commercial feed registration laws. These laws require the seller of certain commercial feed products (including wild bird food products) to register with the state and file periodic activity reports. It is your sole responsibility to obtain and keep in force all necessary licenses and permits required by public authorities.

ITEM 2

Business Experience

James R. Carpenter: Chairman of the Board, President and Chief Executive Officer

James R. Carpenter opened the first WILD BIRDS UNLIMITED store in 1981 and has, since 1983, served as President, Chief Executive Officer and Chairman of the Board of Directors of Wild Birds Unlimited, Inc.

Nancy E. Carpenter: Director and Vice President

Nancy E. Carpenter has been actively involved in our operation since 1987. Currently she is a Director and Vice President.

Patricia Perkinson: Vice President of Retail Sales

Patricia has served as our Vice President of Retail Sales since April 2007. Prior to that time, Patricia served as Managing Director of Retail Sales from 2006 until April 2007, and our Director of Retail Operations from 1995 until 2006.

Paul E. Pickett: Vice President of Franchise Development

Paul Pickett has served as our Vice President of Franchise Development since April 2007. Paul has been with us since 1989, and most recently served as our Director of Franchise Development from April 1994 until April 2007.

Rene Williams: Director of Human Resources

Rene Williams has served as the Director of Human Resources since 1996 and has been with us since 1993.

James G. Lesch: Director of Purchasing

James G. Lesch has served as Director of Purchasing since 1994 and has been with us since 1990.

Charles Braganza: Director of Information Systems

Charles Braganza has served as Director of Information Systems since 2011 and has been with us since 1996.

John Schaust: Chief Naturalist

John Schaust has served as Chief Naturalist since May of 2004.

Amy Moore: Director of Retail Operations

Amy Moore has served as Director of Retail Operations since September of 2007 and has been with us since 1994 in a variety of positions, including most recently, as a Business Consultant and Training Manager.

Bo Lowery: Director of Digital Marketing Communications

Bo has served as our Director of Digital Marketing Communications since January 2011 and has been with us since 1998 as the Communications Manager.

ITEM 3

Litigation

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

If you are opening your first WILD BIRDS UNLIMITED franchise, you must pay an Initial Franchise Fee of \$18,000. You pay us \$4,000 when you sign a Reservation Agreement and the balance of \$14,000 when you sign the Franchise Agreement. The \$4,000 is not refundable even if you do not sign a Franchise Agreement within the 6 month term of the Reservation Agreement. If you do not sign a Reservation Agreement, you pay us \$18,000 when you sign the Franchise Agreement.

If you currently own a WILD BIRDS UNLIMITED franchise and you purchase a franchise for an additional store, the Initial Franchise Fee for the additional franchise will be one-half of the Initial Franchise Fee then being offered by us to new franchisees (currently, \$9,000). If you currently own a franchise and you are granted an option to purchase a franchise for an additional store, you must sign the Reservation Agreement and pay to us a fee of \$2,000 for a six month period. That \$2,000 is applied toward the initial franchise fee for the additional store. If you do not sign an additional Franchise Agreement within the 6 month term of the Reservation Agreement, it will expire and we do not refund the \$2,000. Upon signing the Franchise Agreement for an additional store, you will sign an Initial Franchise Fee Amendment, and you must pay us a fee of \$2,000.00. The remaining \$5,000.00 of the Initial Franchise Fee for an additional store is paid in ten monthly payments of \$500.00, beginning in the second month of operating your additional store.

If you are purchasing an existing WILD BIRDS UNLIMITED franchise, you do not pay an Initial Franchise Fee, but you will be required to pay an Assignment Fee equal to 10% of the current Initial Franchise Fee (currently, \$1,800).

We participate in the Veterans Transition Franchise Initiative (commonly referred to as "VetFran") which seeks to provide opportunities for veterans who want to be in business. If you are a veteran of the U.S. Armed Forces, you may be eligible to receive a 15% discount off the Initial Franchise Fee.

In addition to the Initial Franchise Fee, you also must pay us \$2,500 per store to participate in our training program. You also must pay for your travel, lodging and food expenses while attending training. If you own an existing franchise and are opening additional franchises, you must attend our training program if it has been more than 18 months since you attended the training program. You are not required to pay us the \$2,500 training fee; however, you must pay for your travel, lodging and food expenses.

Additionally, you must participate in the Gift Card Program and pay to us a fee as described in this paragraph (the “Gift Card Fee”). If you purchase franchise rights to a new Store, you must pay to us a Gift Card Fee of \$138 per Store, which covers the cost of gift cards, a display and banner. Included in the applicable Gift Card Fee is an administration fee, which you will pay to us, equal to \$.05 to \$.50 per gift card sold (“Gift Card Service Fee”).

We require that you begin operations of your WILD BIRDS UNLIMITED Store with the RMS Point of Sale software. Although you must purchase this software and first year maintenance fee directly from the software reseller, you must also pay us \$2,800 which includes the cost of a site visit from a member of our staff to install and train you in the use of the software, a Point of Sale software upgrade for the Daily Savings Club[®] and your first year’s Annual Point of Sale Fee. If you are purchasing an existing WILD BIRDS UNLIMITED Store that does not currently have the RMS Point of Sale software, you must purchase and install the software at your location within one year of signing a franchise agreement for the Store.

Currently, only new franchisees who acquire franchise rights for a new location or an existing location (“Mandatory Participants”) must participate in our Daily Savings Club[®] Loyalty Program (the “Program”). Under the Program, Mandatory Participants will purchase various items from us prior to opening the store for business, including Daily Savings Club[®] Cards (“DSC Cards”) and customer application forms at a cost of \$125. Mandatory Participants must sign a Daily Savings Club[®] Enrollment Form. We have the right to modify the participation criteria (including by requiring all franchisees to participate in the Program) or discontinue the Program altogether upon 30 days’ written notice to you. For clarity, if you are opening a new WILD BIRDS UNLIMITED Store, you must participate in the Program as of the date you open the Store for business. If you are a new franchisee who is purchasing rights for an existing WILD BIRDS UNLIMITED Store, you must be in full compliance with the Program and cease all use of any other loyalty program within one year of the date that you sign a franchise agreement for the Store.

The Initial Franchise Fee, the training fee, fees paid according to a Reservation Agreement, Gift Card and Daily Savings Club[®] Program fees, and RMS Point of Sale installation and training fees are nonrefundable. During our last fiscal year, we collected amounts ranging from \$3,800 to \$23,647 from franchisees for the fees referenced in this Item 5.

From time to time, we may offer special incentive programs in conjunction with our franchise development activities. These incentives include cash compensation. As a standard practice, we compensate third parties for the referral of individuals who become franchisees with us. We reserve the right to offer, modify, withdraw or reinstate any incentive plan in the future without notice to you. The only incentive plan we currently offer is one where we pay \$1,000 to any existing franchisee who refers a person to us who subsequently becomes a new WILD BIRDS UNLIMITED franchisee in a new territory.

ITEM 6
Other Fees¹

Type of Fee	Amount	Due Date	Remarks
Royalty	4% of your Store's Gross Sales ²	Payable monthly; must be received at WBU headquarters in Carmel, Indiana by close of business on the 10th day of the following month.	
Local Advertising ³	A minimum of 2% of your Store's Gross Sales	As incurred.	Payable to local ad agency, media and vendors.
Regional/Local Advertising Cooperative ⁴	Maximum of 2% of your Store's Gross Sales	As required by co-op bylaws	Credited toward required local advertising expense described above. We have established no co-ops as of the date of this Disclosure Document.
WILD BIRDS UNLIMITED Advertising Fund ⁵	0.5% of your Store's Gross Sales, up to \$2,500 maximum per year	Payable monthly; must be received at WBU headquarters in Carmel, Indiana, by close of business on the 10th day of the following month.	
Assignment	10% of the then-current Initial Franchise Fee, plus a \$2,500 training fee	As incurred	Your assignee must pay the then-current training fee. You do not owe us any assignment fees if you transfer to a legal entity and you are the sole owner of that legal entity.
Court costs and attorneys' fees	Will vary under circumstances	As incurred	Payable if you fail to comply with the Franchise Agreement.
Audit	Cost of Audit, which will not exceed \$5,000	As incurred	Payable only if our audit reveals an understatement of Gross Sales for any month greater than 2%.

Type of Fee	Amount	Due Date	Remarks
Indemnification	Will vary under circumstances	As incurred	You must reimburse us if we are held liable for claims arising from your franchise operations.
Relocation of Store ⁶	A per diem fee (currently ranging from \$43.00 to \$67.00) to assist you in site location, plus our out-of-pocket costs of assisting you, including our travel costs.	As incurred	This fee is payable at our election.
Late Payment Charges	Late fee of \$35 plus interest at an annual rate of 2% in excess of Prime Rate, as reported in the <i>Wall Street Journal</i>	As incurred	These charges are payable on all fees due us which are not paid by the due date.
Annual Point of Sale Fee ⁷	Annual fee currently equal to \$240	Annually	See Note 7
Gift Card Fee and Related Service Fees	\$138, which includes a franchisor administration fee of \$0.05 to \$0.50 per gift card sold.	As incurred	See Note 8
Daily Savings Club [®] Customer Loyalty Program	Varied expenditures for ongoing purchases of DSC Cards and customer applications, ranging from approximately \$0 to \$100 per month.	As incurred	See Note 9
Shopatron – Internet Store Fees	Order Management Fee equal to 8% of the order total plus shipping for every order fulfilled; and a Shipment Fee of \$1.29 per order fulfilled.	As incurred	Payable only if you utilize the Shopatron Website and successfully request to fulfill customer orders.
Mystery Shop	\$300	As incurred	The Mystery Shop fee is required during your first year of operation

NOTE 1 Unless otherwise noted, all fees are payable to us and are nonrefundable.

NOTE 2 This 4% royalty figure is on all gross sales, but does not include state or local sales tax. “Gross Sales” are the revenues and receipts from the sale of all merchandise and services sold, including cash sales, charge sales and exchanges or trades of every kind and nature, including any bulk or pre-paid customer sales

made at or from your WILD BIRDS UNLIMITED Store or any temporary site and includes mail, internet, email or telephone orders received or filled at the premises. Refunds and allowances to customers must be deducted from the sale price of merchandise sold and charges made for services performed. Each sale upon installment, credit, or lay-away must be treated as a sale upon receipt of payment from the customer. The term “Gross Sales” does not include any sums collected and paid out for any sales, occupation, excise or other tax based upon or measured by the sale or sales price of merchandise, which is levied by the federal, any state, or local government, provided that no deduction from Gross Sales will be allowed for internet participation fees, credit card processing fees, income taxes, gross receipt taxes or other similar taxes.

NOTE 3 Local advertising does not include incentive programs, including cost of honoring coupons; local planning activities; market wide or other research; product costs incurred in any promotion; salaries and expenses for your employees (including those for attendance at advertising meetings or activities); press parties or other expenses of publicity; political or other contributions; seminars; and specialty items (such as T-shirts, premiums, awards, etc.) unless they are part of a market-wide advertising and marketing program and their cost is not covered by the promotion. Most of our franchisees voluntarily spend more than 2% of their Stores’ Gross Sales for local advertising. If we request, you must submit to us a Quarterly Advertising Report of your advertising expenses no later than 30 days after the end of each calendar quarter.

NOTE 4 The Franchise Agreement allows us to establish a regional or local advertising cooperative and requires you to contribute up to 2% of your Stores’ Gross Sales (“Regional Contribution”). This Regional Contribution is nonrefundable and will be credited toward your Local Advertising Fee. We have the right to decide which advertising cooperative you will join. We currently have not established any cooperatives and we have no immediate plans to do so. We reserve the right to establish cooperatives in the future.

NOTE 5 The Franchise Agreement allows us to require you to contribute up to 2% of your monthly Gross Sales (“National Contribution”) into an account we have established (“WILD BIRDS UNLIMITED Advertising Fund”). You must pay a National Contribution of 0.5% of your monthly Gross Sales, or a maximum of \$2,500 per year into the WILD BIRDS UNLIMITED Advertising Fund. We may increase this percentage to 2% upon 60 days notice to you. Each monthly contribution is based on the immediately preceding month's Gross Sales.

NOTE 6 You may not relocate your Store without our permission and our approval of the site.

NOTE 7 We require that you begin operation with this point of sale software. We may increase the amount of the Annual Point of Sale Fee on 30 days’ prior notice to you. The Annual Point of Sale Fee is \$240 per Store, per year, regardless of whether you have one or multiple Point of Sale register(s) in your Store.

NOTE 8 The Gift Card Program is mandatory. You will incur a franchisor administration fee per gift card sold by you. This fee will reimburse us for the administrative costs we incur in relation to the Gift Card Program.

NOTE 9 Currently, the Daily Savings Club® Customer Loyalty Program (“Program”) is mandatory for franchisees who acquire franchise rights for a new location or acquire rights to an existing location (“Mandatory Participants”). Mandatory Participants will incur these fees on an ongoing basis as needed during the term of the franchise.

ITEM 7

Estimated Initial Investment

YOUR ESTIMATED INITIAL INVESTMENT

Type of Expenditure	Amount ¹	Method of Payment	When Due	To Whom Payment is to be Made
Initial Franchise Fee ²	\$18,000 (new franchises) or \$9,000 (existing franchises) ³	Lump Sum, in two payments, or in several payments (existing franchises) ³	When you sign the Franchise Agreement, or \$4,000 for new franchisees (\$2,000 for existing franchisees) when you sign the Reservation Agreement with the balance due upon signing the Franchise Agreement ³	Us
Training	\$2,500; \$0 if you are an existing franchisee opening an additional franchise ⁴	Lump Sum	When you sign the Franchise Agreement	Us
Travel, Meals, Lodging ⁵	\$983 – \$5,664	As incurred	During training	Airlines, Hotels, Restaurants
Lease Deposit ⁶	\$2,500 – \$4,500	Lump sum	When you sign your lease	Lessor
First Month's Rent	\$2,500 – \$4,500	Lump sum	Monthly	Lessor
Leasehold Improvements ⁷	\$5,215 - \$26,991	Per Provider	As Incurred	Contractors, Vendors
Insurance (first quarter) ⁸	\$125 – \$580	Lump sum	As Incurred	Vendors
Legal/Accounting	\$500 - \$6,500	Per Provider	As Incurred	Lawyers, Accountants
Office Equipment ⁹	\$9,255 - \$9,341	Lump sum	As Incurred	Vendors, Us
Signs ¹⁰	\$1,187 – \$8,270	Lump sum	As Incurred	Vendors
Advertising ¹¹	\$4,113 - \$6,399	Per Provider	As Incurred	Ad Agency, Media
Retail Fixtures ¹²	\$12,493 - \$15,642	Lump sum	As Incurred	Vendors
Opening Inventory ¹³	\$19,642 - \$22,570	Per Provider	As Incurred	Suppliers

Type of Expenditure	Amount¹	Method of Payment	When Due	To Whom Payment is to be Made
Gift Card Fee ¹⁴	\$138	Lump sum	When you sign the Authorization and Gift Card Participation Agreement	Us
Misc. Expenses ¹⁵	\$6,122 - \$10,242	Per Provider	As Incurred	Employees, Government Agencies, Third Parties, Us
Additional Funds for first-3 months	\$10,000 – \$20,000	As Incurred	As Incurred	Employees, Suppliers, Utilities, Vendors, Third Parties
Total Opening Expenses ¹⁶	\$95,273 - \$161,837 for a new franchisee (\$83,773 - \$150,337 for an existing franchisee)			

NOTE 1 Unless otherwise stated, all amounts are uniformly imposed and non-refundable. This initial investment phase is estimated to be approximately three months.

NOTE 2 If you sign a Reservation Agreement, you pay \$4,000, which we will credit toward the Initial Franchise Fee and you will pay us the remaining \$14,000 when you sign the Franchise Agreement. If you are an existing franchisee purchasing a franchise for an additional store, you will pay half the Initial Franchise Fee, currently \$9,000.

NOTE 3 If you are an existing franchisee and you are granted an option to purchase a franchise for an additional store, you pay \$2,000 when you sign the Reservation Agreement, \$2,000 when you sign the Franchise Agreement and the remaining \$5,000 in ten monthly installments of \$500, beginning in the second month of operating your additional store.

NOTE 4 If you are an existing franchisee and are opening an additional franchise, you must attend our training program if it has been more than 18 months since you attended the training program; however, you are not required to pay us the \$2,500 training fee.

NOTE 5 Includes travel, for one or two of you, to our headquarters before you purchase a franchise and travel and expenses related to the initial five days of training at our headquarters and five days of in-store training at a store near our headquarters or near your home, as we may determine in our sole business judgment.

NOTE 6 We encourage you to look for strip center sites or existing structures which could easily be converted into a WILD BIRDS UNLIMITED store. Leasing or building costs vary according to the size, location and condition of the building. Our figures are estimates and the amounts are refundable only if provided in your lease agreement. Lease agreements often require a security deposit equal to one month's rent. This amount is usually refunded when the lease terminates if you leave the premises undamaged. We do not require that you purchase real estate or build a building for your store. If you do, however, your costs will exceed the estimated ranges.

NOTE 7 You will need to remodel or construct the interior of your Store to comply with our standards. The low estimate is for a location that needs little work, and the high estimate for one that needs extensive remodeling. Our estimates account for the recommendation that you do a substantial portion of the labor, including painting, putting up slat-wall and positioning fixtures.

NOTE 8 Your insurance costs will vary depending upon lease requirements, coverage and other factors. You must maintain a comprehensive liability insurance policy, including products and contractual liability (\$1,000,000), bodily injury liability and property damage liability (\$1,000,000). Generally, premiums are due immediately to your insurer, with partial refunds upon early cancellation.

NOTE 9 This includes the estimated legal and accounting costs associated with setting up your business entity, reviewing this disclosure document, accounting costs and the costs associated with securing financing.

NOTE 10 Includes office furniture, scale, front and backroom computers and printers, software and Annual Point of Sale fee and other equipment you use in the management of your business. Although you must purchase the RMS software and first year maintenance fee directly from the software reseller, you must also pay us \$2,800 which includes the cost of a site visit from a member of our staff to install and train you in the use of the Software, a Point of Sale software upgrade for the Daily Savings Club[®] and your first year's Annual Point of Sale Fee.

NOTE 11 Our low estimate is based on the use of an existing sign with few modifications. Our high estimate is for a new sign, plus installation. Independent contractors provide signs. The signs must meet our standards and specifications. You may need to get a permit to erect or display the sign. Permit costs vary by municipality and are included in this estimate. If you decide to, or have the ability to, place two signs on your Store, your sign costs will be higher than our high estimate.

NOTE 12 Advertising costs include pre-opening, opening, grand opening and the first three months of operation. Advertising costs also include the cost associated with printing in-store handouts.

NOTE 13 Retail fixtures include custom display fixtures that you may have built locally to our specifications or purchase directly from our approved suppliers. Fixtures include a binocular case, seed bag display, suet display, wooden sales counter and other miscellaneous displays. Other standard fixtures include slatwall, decorative trim, doormats, TV/DVD player, and CD player and speakers. Vendor costs may vary.

NOTE 14 The inventory items generally include birdseed, birdfeeders and gift/garden items. Our estimates include merchandise and freight. The cost will vary according to the season, the length of time between birdseed deliveries and the size of the showroom.

NOTE 15 The Gift Card Program is mandatory. You will incur a Gift Card Fee when you sign and return the Authorization and Gift Card Participation Agreement, which you must do prior to opening your Store for business. The estimate covers your purchase of 50 gift cards, including gift card holders, as well as display signage and a banner.

NOTE 16 You must pay for licenses from local authorities under local or state statutes, utility deposits, miscellaneous supplies and wages for your employees for services performed before you open. This expense category reflects expenses for giveaways, labels, internet set up, uniforms, tools, shopping and seed bags, employee files, office supplies, 6 mystery shop visits during your first year of operation, and the Daily Savings Club[®] Customer Loyalty Program.

NOTE 17 This estimates your initial start-up expenses. These figures are estimates and we cannot guarantee that you will not incur additional expenses in starting your Store. Your costs will depend on factors such as: how closely you follow our methods and procedures; your management skill, experience and business

acumen; local economic conditions; the local market; the prevailing wage rate; competition; and the sales level reached during the initial period.

For certain estimated expenses (rent deposit, first month's rent, leasehold improvements, signs, retail fixtures, opening inventory, miscellaneous expenses and working capital) the low end of the range reflects a typical 1400 sq. ft. store and the high end of the range reflects a typical 1700 sq. ft. store. If the size of your Store will differ from these models, you should adjust your estimate accordingly. Additionally, you may choose to purchase items such as a backroom microwave, copier, refrigerator or other items of convenience that are not necessary to operate your Store. These items are not included in the start-up expenses. Vendor costs may vary.

We rely on our more than 30 years of experience and our franchisees' experience, as well as industry trade data, to compile these estimates. You should review these figures carefully with a business advisor, accountant or attorney before making any decision to purchase the franchise. There may be additional expenses associated with the opening and operation of your store that we are not able to identify at this time.

ITEM 8

Restrictions on Sources of Products and Services

In order to ensure a uniform image and uniform quality of products and services throughout the WILD BIRDS UNLIMITED System, you must maintain and comply with our quality standards. Although you are not required to purchase or lease real estate from us, we must consent to the location of your Store. You must construct and equip your Store in accordance with our then current approved design, specifications and standards ("Equipment and Furnishings" as defined in Section 4.03 of the Franchise Agreement). In addition to meeting our design specifications and standards, it is your responsibility to ensure that your building plans comply with the Americans With Disabilities Act and all other federal, state and local laws.

Except as noted below, while you are not required to purchase all approved products from designated suppliers only, your sources must supply the approved products in accordance with our standards and specifications. The purpose of this requirement is to ensure that all franchisees adhere to the uniformity requirements and quality standards associated with WILD BIRDS UNLIMITED Stores.

From time to time, we may designate a single supplier for a product or service, and that single supplier may be us, an affiliate, or a third party. For example, the following suppliers currently are the only available source of supply for the specific products and services noted below: (a) Givex USA Corporation (gift card processing and operational support services for our gift card program); (b) JCL (suet display and wood decking); (c) Step Head Mat Service (floor mats for the Store); (d) MicroSoft and Intuit (Store POS and backroom computer/software); (e) Land's End Business Outfitters or McTaggart (staff apparel); (f) Keltner (WBU-branded promotional items); (g) Howard Packaging (shopping bags and boxes); (h) Sun Coast Packaging (seed bags); (i) Right on Interactive, Inc. and Exact Target, Inc. (store email marketing); (j) The Franchise Builders, Inc. (sole supplier of Store website); and (k) Shopatron (e-commerce services).

In addition, we are the only approved supplier for various products related to the Gift Card Program and Daily Savings Club[®] Customer Loyalty Program, including Gift Cards, Gift Card Display, Gift Card Signage, Daily Savings Club[®] cards ("DSC Cards"), application forms, a Point of Sale software upgrade and display signage. We are also the only approved supplier of certain office supplies (i.e., employee file

folders) that we recommend you use in the Store. You will pay the then-current price in effect for all purchases from us or our affiliate.

We provide you with a list of approved products and suppliers (“Approved Purchasing List”). We may revise the Approved Purchasing List. We will update and give you the Approved Purchasing List as we deem advisable.

You are encouraged to use our approved suppliers as these have been identified as suppliers who meet our approval specifications. We do not charge any fee for approval of new suppliers. In determining whether to approve a supplier, we review product samples of the merchandise that the supplier offers, its sales terms and conditions, and other relevant factors. We will usually inform you of our decision within 30 days of the day we have received all information we requested. Many of our approved suppliers are able to supply their products throughout North America while others are limited to a regional area of distribution. The supplier and merchandise must meet basic requirements to obtain our approval. We will notify you in writing (including through written postings on our Intranet) or by e-mail if we revoke our approval of any supplier. We do encourage you to seek out and test new suppliers and products that match and improve the WILD BIRDS UNLIMITED merchandise mix. We would like to approve these new suppliers and products before you reorder products or use the supplier again.

Designated approved suppliers who supply private label merchandise, retailing supplies and computer software/systems to our franchisees pay us service fees which reimburse costs associated with patent and trademark licensing and protection, research and development of the products and support materials, service of software/systems to franchisees, required reporting and registration fees and the administration of the supplier relationship. These licensed suppliers also pay us from 1.0% to 15% of the sales they make to our franchisees. During our 2012 fiscal year we derived revenues of \$658,736 from franchisee purchases of products from licensed suppliers, or 10.3% of our total revenues of \$6,397,801, based on our Statement of Income for the year ended December 31, 2012.

No officer of the franchisor owns an interest in any approved supplier as of the date of this Disclosure Document.

There currently are no purchasing or distribution cooperatives. We may negotiate purchase arrangements with suppliers (including price terms), for the benefit of the franchise system. We do not provide material benefits to you (for example, renewal or granting additional franchises) based upon your purchase of particular products or services or use of particular suppliers.

As noted above, we are the only approved supplier for certain products related to the Gift Card Program and Daily Savings Club[®] Customer Loyalty Program. During our 2012 fiscal year, we derived revenues of \$104,547 from franchisee purchases of products for the Gift Card Program, Daily Savings Club[®] Customer Loyalty Program, and RMS Point of Sale software and installation, or 1.6% of our total revenues of \$6,397,801, based on our Statement of Income for the year ended December 31, 2012.

If you occupy the premises under a lease, you must, before signing that lease, furnish us with a copy of the lease which must include the following terms and conditions:

- a. provision permitting you to fulfill the termination requirements which we impose upon you in Section 12.02 of the Franchise Agreement; and
- b. provision which allows us to assume your obligations under the lease when your franchise terminates.

In addition to the requirements described above, you must obtain and maintain, at your own expense, insurance coverage and meet other insurance-related obligations. The costs and coverage may vary depending upon the insurance carrier charges, terms of payment and your history.

We estimate that the purchase or lease of signs, fixtures, products, supplies, and advertising and sales promotion materials that meet our specifications and standards will represent approximately 65% to 85% of the cost to establish your Store and 50% to 75% of the cost to operate your Store.

ITEM 9

FRANCHISEE’S OBLIGATIONS

This table lists your principal obligations under the Franchise and other agreements. It will help you find more detailed information about your obligations in these agreements and in other Items in this Disclosure Document.

	Obligation	Section in Franchise Agreement or Reservation Agreement*	Item in Disclosure Document
a.	Site Selection & acquisition/lease	Sections 4.01 & 4.02 Reservation Agreement: Section 4	Items 7 & 11
b.	Pre-opening purchases/leases	Sections 4.03, 4.05 & Article 5	Item 8
c.	Site development & other pre-opening requirements	Not Applicable Reservation Agreement: Section 4	Items 6, 7 & 11
d.	Initial & ongoing training	Sections 6.03	Item 6, 7 & 11
e.	Opening	Section 4.02	Item 11
f.	Fees	Article 7 Reservation Agreement: Sections 3.1, 3.2, 3.3 & 5	Items 5, 6 & 7
g.	Compliance with standards & policies/ operating manuals	Articles 4, 5 & 6	Item 11
h.	Trademarks & proprietary information	Article 11	Items 13 & 14
i.	Restrictions on products/services offered	Article 5	Items 8, 11 & 16

	Obligation	Section in Franchise Agreement or Reservation Agreement*	Item in Disclosure Document
j.	Warranty & customer service requirements	Not Applicable	Item 11
k.	Territorial development & sales quotas	Not Applicable Reservation Agreement: Section 1	Item 12
l.	Ongoing product/service purchases	Article 5	Item 8
m.	Maintenance, appearance & remodeling requirements	Sections 3.02, 4.02, 4.04	Item 11
n.	Insurance	Section 10.02, 10.03 & 10.04	Items 6, 7 & 8
o.	Advertising	Section 7.04 & Article 8	Items 6, 7 & 11
p.	Indemnification	Sections 10.01 & 11.05	Item 6
q.	Owner's participation/management/staffing	Sections 2.04 & 6.04	Items 11 & 15
r.	Records/reports	Article 9	Item 6
s.	Inspections/audits	Sections 9.02, 9.03 & 9.05	Items 6 & 11
t.	Transfer	Article 14	Item 17
u.	Renewal	Section 3.02	Item 17
v.	Post-termination obligations	Sections 11.05, 11.07, 11.08, 12.02 & Article 13 Reservation Agreement: Sections 6 & 7	Item 17
w.	Non-competition covenants	Sections 11.08 & Article 13	Item 17
x.	Dispute resolution	Sections 15.01, 15.02, 16.11 & 16.12 Reservation Agreement: Section 9	Item 17
y.	Other	Not Applicable	Not Applicable

*Unless otherwise noted, section or article references refer to the Franchise Agreement.

ITEM 10

Financing

Except for the financing of part of the Initial Franchise Fee for an additional location as described below, we do not offer direct or indirect financing. We do not guarantee your note, lease or obligation.

If you are an existing franchisee purchasing an additional franchise, we will permit you to pay \$5,000 of the Initial Franchise Fee for your new location in ten monthly payments of \$500, beginning in the second month of operating your additional store. You will not sign a promissory note, security

agreement or any other financing document. Rather, you will sign the Initial Franchise Fee Amendment. There is no interest rate, security interest, prepayment penalty or other material financing terms. Your failure to pay any \$500 monthly payment will be a default under the Franchise Agreement, and if uncured could lead to termination.

ITEM 11

Franchisor's Assistance, Advertising, Computer Systems and Training

Except as disclosed below, Wild Birds Unlimited is not required to provide you with any assistance.

Pre-Opening Obligations

Before you open your Store, we must provide the following assistance to you:

- 1) Provide you with a Designated Territory (Franchise Agreement, Section 2.02).
- 2) Assist you in selecting a business site. We will provide you with site selection criteria and guidance regarding what information to gather and how to compare alternative site choices. We will help you choose your site, but the final choice will be up to you (Franchise Agreement, Section 2.05(b)).
- 3) Accept or reject your proposed site. We will not unreasonably withhold acceptance. (Franchise Agreement, Section 4.01.) Neither our written acceptance to your proposed site nor any assistance we provide in helping you select a site is a guarantee or assurance that the business will be successful at the accepted location. (Franchise Agreement, Section 2.05(b).) If you are unable to acquire a Store site and you do not open your Store within six months of signing the Franchise Agreement, or if you and we cannot agree on a Store site, it is a breach of the Franchise Agreement and a basis for termination unless otherwise agreed in writing by us. We have previously agreed to extend this period because of delays incurred by a franchisee beyond his or her control.
- 4) Provide you with specifications and advice for the layout, decor, equipment, furnishings and signs then being recommended to be identified as a WILD BIRDS UNLIMITED Stores. (Franchise Agreement, Sections 1.05(c), 4.02, & 4.03.)
- 5) Provide you with access to our Operating Handbooks containing information including the standards, specifications, authorized products and services, and operating procedures. (Franchise Agreement, Section 6.01.) You may view the Operating Handbooks before you purchase the franchise.
- 6) Provide you with training. You must attend and complete to our satisfaction our initial WILD BIRDS UNLIMITED Store training program at a location we designate. Currently, we conduct this training at our Franchise Support Center in Carmel, Indiana. This training will cover all aspects of operating a WILD BIRDS UNLIMITED Store, including ordering, receiving, budgeting, selling, merchandising marketing, human resources and basic knowledge about the hobby of birdfeeding. (Franchise Agreement, Section 6.03.) We anticipate that new store training classes will be based extensively on the use of Microsoft Windows 7 Professional and QuickBooks. As a result, you must be trained by a third party in Microsoft Windows 7 Professional, MS Excel, MS Word and QuickBooks

before the training session begins. Our training course will not train the basic knowledge of these programs, rather, it will train the use of these programs in the operation of a WILD BIRDS UNLIMITED Store.

7) Provide you with a list of approved suppliers of birdfeeders, birdseed, nature items and other required supplies. (Franchise Agreement, Section 2.05(f).)

Continuing Obligations

During the ongoing operation of your Store, we must provide the following assistance to you:

1) Provide a field representative to advise you in the operation of your store including sales techniques, store management and operations and bookkeeping (Franchise Agreement, Section 2.05(h)).

2) Provide continuing consultation and periodic inspections and evaluations of your Store operations (Franchise Agreement, Section 2.05(i)).

Advertising

As of the date of this Disclosure Document, you pay a National Contribution of 0.5% of your Store's Gross Sales, or a maximum of \$2,500 per year, into the WILD BIRDS UNLIMITED Advertising Fund. We have the right to increase this percentage to 2% of your Store's Gross Sales, upon 60 days notice to you. We established the WILD BIRDS UNLIMITED Advertising Fund in April 1997.

WILD BIRDS UNLIMITED will administer the WILD BIRDS UNLIMITED Advertising Fund. The WILD BIRDS UNLIMITED Advertising Fund is not a trust or escrow account, and we do not have any fiduciary obligations with respect to the fund. The WILD BIRDS UNLIMITED Advertising Fund is not audited. Upon written request, you have the opportunity to review the unaudited financial statements, or obtain an accounting of our use of the funds. We may use the Fund for (1) broadcast, print or other advertising; (2) the creation, development and production of marketing, advertising and promotional materials, including ad radio, videotapes, direct mail pieces, and other print advertising; (3) any marketing or related research and development; (4) developing, maintaining and hosting the WILD BIRDS UNLIMITED website, extranet and intranet system and any other online communication systems; and (5) advertising and marketing expenses, including product research and development, services provided by advertising agencies, public relations firms or other marketing, research or consulting firms or agencies and administrative and overhead costs and salaries for marketing support personnel. We have established a WILD BIRDS UNLIMITED Advertising Council ("WBUAC"). Membership of the WBUAC is comprised of all members of the Franchise Advisory Council ("FAC"). (Members of the FAC are elected as follows: six members are elected by franchisees, two members are appointed by FAC members, and one member is appointed by us.) We may consult with the WBUAC as to advertising and marketing activities. The WBUAC acts as an advisory body and may vote to express their advice or opinion with respect to various advertising and marketing activities. All final decisions regarding the form, content and frequency of advertising and marketing materials are reserved to us. We have the power to form, change or dissolve the WBUAC.

The use of the Fund in the most recent fiscal year was: Production 1.96%, Administrative 12.27% and Other 85.77%. Other includes: Corporate Sponsorships 9.34%, Public Relations 5.47%, Marketing

Materials for use in WILD BIRDS UNLIMITED Stores 20.10%, Internet 48.97%, Miscellaneous/Travel 1.83% and Excess Funds to be carried to next fiscal year 0.06%.

During 2012, we received 12.27% of the fund to cover administrative costs associated with the WILD BIRDS UNLIMITED Advertising Fund. This account was designed to increase brand recognition and provide marketing tools to be used by the WILD BIRDS UNLIMITED Franchise System. Direct placement of advertising in local franchisee markets is not a designed use of these funds, and we have no obligation to spend any of the funds in your Designated Territory. If funds are not completely spent in any given fiscal year, those funds are carried over into the next fiscal year. Details regarding how these funds are spent are communicated to you on an annual basis if requested. None of the funds in the WILD BIRDS UNLIMITED Advertising Fund are used for advertising that is principally a solicitation for the sale of franchises.

You also must spend at least 2% of your annual Gross Sales on local advertising. We do not fund any advertising program for the products or the services offered by you. Although we are not contractually required to do so, we make advertising material available to you, which is currently developed by our in-house advertising department. You must use this advertising material that is provided in the WILD BIRDS UNLIMITED Marketing Handbook or on our Intranet site. If you wish to use your own or other advertising material, you must obtain our prior approval before doing so. Except for advertising material we make available to you or material we otherwise approve, you may not use electronic media (including the internet).

We may require you to submit to us a Quarterly Advertising Report of your advertising expenses no later than 30 days after the end of each calendar quarter. We are not contractually required to provide any advertising materials to you. Additionally, you must submit a Monthly Advertising Report, accessible via our Intranet, which tracks your advertising activities for your WILD BIRDS UNLIMITED Store. The Monthly Advertising Report must be submitted to us on or before the 10th day of each month and must include information pertaining to your advertising efforts for your Store during the preceding calendar month.

We may require you to participate in a local or regional advertising cooperative. We do not presently require you to participate in any local or regional cooperatives. You may be required to contribute up to 2% of your Store's annual Gross Sales to the cooperative, which will be credited toward your local advertising expenditure requirement. The Franchise Agreement does not provide and we do not currently have a plan for determining: 1) how the area or membership of the cooperative is defined; 2) who is responsible for administration of the cooperative; 3) whether the cooperative must operate from written governing documents; or 4) whether cooperatives must prepare annual or periodic financial statements. The Franchise Agreement does give us the power to require that cooperatives be formed, changed or merged.

Back Office Computer System

We require that you buy and use the following software in the operation of the Store. Our requirement is based on current system needs. We may alter or amend our system requirements as business needs dictate. Other software programs may be required in the future.

Software

Microsoft Windows 7 Professional or later version. This is an operating system and utilities software which provides an environment and user interface for executing user applications on PC hardware. In order to operate our web based utilities, the Internet Explorer web browser that is packaged with this operating system is recommended. Unless you and the vendor of the software agree otherwise, they have no contractual right or obligation to provide ongoing maintenance, repairs, upgrades or updates. Because the manufacturer has no predetermined schedule for updates and upgrade pricing, we cannot estimate a current annual cost of optional upgrades and updates. Additionally, since this software is purchased on an “off the shelf basis,” the cost of optional maintenance and support contracts is likely to be prohibitive. We have not approved any other compatible equivalent component or program to perform the same functions. This software is the proprietary property of Microsoft Corporation, One Microsoft Way, Redmond, Washington 98052-6399. We have used the prior version of this software since May of 1995. We have used and recommended MS Windows to franchisees since August of 1995.

Microsoft Office 2010 Professional Edition (or later version) for Windows. The software set contains Microsoft Word, a word processing program used to create letters, memos, reports, newsletters, signs and other types of documentation, Microsoft Excel, a spreadsheet program used to perform many different types of numerical calculations and manipulations and to create various report forms for numerical information, Microsoft Publisher, a desktop publishing program, and Microsoft PowerPoint, to create slideshow presentations. Unless you and the vendor of the software agree otherwise, they have no contractual right or obligation to provide ongoing maintenance, repairs, upgrades or updates. Because the manufacturer has no predetermined schedule for updates and upgrade pricing, we cannot estimate a current annual cost of optional upgrades and updates. However, the cost of the most recent update was approximately \$200 with no continuing annual cost. Additionally, since this software is purchased on an “off the shelf basis,” the cost of optional maintenance and support contracts is likely to be prohibitive. We have not approved any other compatible equivalent component or program to perform the same functions. This software is the proprietary property of Microsoft Corporation, One Microsoft Way, Redmond, Washington 98052-6399. We have used the prior version of this software since May of 1995. We have used and recommended Microsoft Office to franchisees since August of 1995.

QuickBooks 2012 Pro or later for Windows. This is a software application that is used for most facets of small business check writing, accounting and financial analysis. Unless you and the vendor of the software agree otherwise, they have no contractual right or obligation to provide ongoing maintenance, repairs, upgrades or updates. Because the manufacturer has no predetermined schedule for updates and upgrade pricing, we cannot estimate a current annual cost of optional upgrades and updates. Additionally, since this software is purchased on an “off the shelf basis,” the cost of optional maintenance and support contracts is likely to be prohibitive. We have not approved any other compatible equivalent component or program to perform the same functions; however, we may authorize the use of other accounting software if it more closely meets your specific needs. This software is the proprietary property of Intuit, 2650 E. Elvira, Suite 100, Tucson, Arizona 85706. We have used the prior version of this software since October of 1994, and we first recommended it to franchisees in May of 1995.

Hardware

To operate this software, we recommend that you use at least an IBM PC-compatible, Pentium (or comparable processor), 2 GB Memory, 250 GB hard disk, 15 inch color monitor, CD/DVD-ROM drive, 56K FAX/Data modem, and color printer. If you are purchasing a new computer, we recommend a desktop with at least 4GB RAM, 500 GB hard drive, network card, CD/DVD RW drive and a color printer.

You have no specific contractual obligation to upgrade or update any hardware component or software program during the term of the Franchise Agreement. We do reserve the right to modify system standards as reflected in the Operations Handbook. This modification of system standards may require that you upgrade or update your computer hardware to accommodate the then current system software requirements.

We are not contractually obligated to provide to you or assist you to obtain or train in the use of these software packages or any hardware necessary to run them. We do provide you with recommended sources from which you may purchase the software and hardware and from which you may receive training.

We have the unlimited right to access the information respecting your franchise operations contained in your computer system.

We currently have an internal electronic network (i.e., Intranet) that facilitates electronic communication among us and the WILD BIRDS UNLIMITED Franchisees. Use of that Intranet is subject to our then-current policies and procedures, and we reserve the right to restrict or terminate access of any user.

Point of Sale

Microsoft Retail Management System (RMS). If you are a new franchisee opening a new Store, we require that you begin operations of your WILD BIRDS UNLIMITED Store with the RMS Point of Sale software; if you are purchasing an existing Store, you commence use of the RMS Point of Sale software within one year from the date you acquired your franchise rights for the existing Store. This is a software application that is used for processing customer transactions, tracking customer purchases and inventory levels in a retail store. Unless you and the vendor of the software agree otherwise, they have no contractual right or obligation to provide ongoing maintenance, repairs, upgrades or updates after the first year that you license the software. We will provide technical support and custom developments directly to you for an annual fee of \$240. This annual fee for support and custom developments may change in the future. We have not approved any other equivalent component or program to perform the same functions. This software is the proprietary property of Microsoft Corporation, One Microsoft Way, Redmond, Washington 98052-6399. We have used the current version of the software since October 1998, and we first recommended it as an option to franchisees in June of 1999. We are requiring new franchisees to open with it as of April 2006. In order to operate this software we require that you use a Microsoft Windows compatible computer with at least a Pentium or comparable processor, Windows 7 Professional (32 bit), 1 GB of memory, 250 GB hard drive, 17 inch color monitor, CD/DVD-ROM drive, receipt printer, cash drawer, bar code scanner, barcode label printer and programmable keyboard. We recommend that all Point of Sale hardware be purchased through the Wild Birds Unlimited Information Systems department. If you choose to purchase your own Point of Sale hardware, approval must be received from the Wild Birds Unlimited Information Systems department prior to purchase to ensure compatibility with RMS. Currently, the cost for you to purchase the required software, hardware (both for back office computer and Point of Sale) and RMS Point of Sale software is estimated at \$8,221.

Site Selection

You have 6 months after you sign a Reservation Agreement to obtain our acceptance of the site you select within your Designated Territory. The Franchise Agreement will be signed once our acceptance is obtained. The factors which we will consider in accepting to or rejecting your proposed site include: the demographic characteristics of the proposed site; traffic patterns; parking; the predominant character of the neighborhood; the proximity to other businesses, including other WILD BIRDS UNLIMITED Stores; the purchase price or rental obligations and other lease terms for the proposed location; and the size, appearance, other physical characteristics of premises and the Company's assessment based on its on-site review of the proposed location. You may extend the term of the Reservation Agreement for an additional 6 months by paying to us an additional reservation fee.

You must sign a lease for your Store within 6 months of signing the Franchise Agreement. If we do not accept the site you propose, we will permit you to examine alternative areas for your site. We have found the typical length of time between the signing of the Franchise Agreement and the opening of the Store varies from 45 to 120 days. Factors affecting this length of time may include finding an acceptable location, obtaining financing arrangements, local ordinance compliance, necessary remodeling time and delivery and installation of equipment, signs and inventory. We may terminate the Franchise Agreement if you fail to locate an acceptable site for the Store.

Training

Our initial training program consists of a classroom component and an on-site component, each of which extends over five days. Specifically, you must attend and successfully complete our five day training program at our training facility in Carmel, Indiana and a separate five day in-store training program at our Indianapolis, Indiana, franchised Store location or at another preapproved existing WILD BIRDS UNLIMITED store location. If you are purchasing an existing WILD BIRDS UNLIMITED Store, you may conduct your in-store training in the store that you are purchasing. This training will take place after you have signed your Franchise Agreement but before you have opened your Store. The in-store training must occur prior to the anticipated opening date of your Store. Training is also available to any other individual who will be principally involved in the operation of your business. Anyone receiving training who is not a franchisee or a guarantor of a franchise agreement must sign a confidentiality/non-competition agreement.

You must pay us a \$2,500 training fee. You also must pay for all travel, meal and lodging expenses which you incur by participating in the training program.

We regularly conduct additional training programs and refresher courses on selected topics. These programs take place at our annual national franchise convention. You are not required to attend these meetings; however, you are strongly encouraged to attend as changes and improvements in the retail operating system are best learned by attending these meetings.

After you have successfully completed the training program, we assign to you a member of our Franchise Support Center staff (the Manager of New Owner Development or a Business Consultant) who will provide you with support through your first year of operation.

We encourage you to sign your Franchise Agreement at least three weeks prior to attending the training program. This will allow you to review some of the training handbooks and prepare for the training program.

TRAINING PROGRAM

Subject	Hours of Classroom Training	Hours of On-the-Job Training	Location
Financial Management	1.25	N/A	Wild Birds Unlimited Franchise Support Center in Carmel, IN
Customer Service & Selling	3	15	Wild Birds Unlimited Franchise Support Center in Carmel, IN & at in-store training location near our headquarters or your Territory

Subject	Hours of Classroom Training	Hours of On-the-Job Training	Location
Daily Operations & Wild Birds Unlimited Tools	7.25	7	Wild Birds Unlimited Franchise Support Center in Carmel, IN & at in-store training location near our headquarters or your Territory
Point of Sale System	0	11	In your store location & at in-store training location near our headquarters or your Territory
Human Resources	2.5	N/A	Wild Birds Unlimited Franchise Support Center in Carmel, IN
Visual Merchandising & Store Layout	5.75	N/A	Wild Birds Unlimited Franchise Support Center in Carmel, IN
Marketing/Promotion	6.00	N/A	Wild Birds Unlimited Franchise Support Center in Carmel, IN
Product and Hobby Education	7	7	Wild Birds Unlimited Franchise Support Center in Carmel, IN & at in-store training location near our headquarters or your Territory
Purchasing & Inventory Management	3.5	N/A	Wild Birds Unlimited Franchise Support Center in Carmel, IN
Totals	36.25	40	

The Training Program is held approximately 4 times per year or whenever minimum class sizes are achieved.

Marilyn Cinkoske oversees our training and has since January 2004. Marilyn, Manager of New Owner Development, joined our company as a Field Consultant in 1998. From 1973 to 1998, she worked in sales and management in both retail and wholesale floral companies, Frank's Nursery & Crafts, Lanman Florists, Hill's Floral Group in various locations throughout Indiana. Others will assist Marilyn in several aspects of the training.

Instructional materials will include any or all of the following: (1) Employee Handbook, (2) Human Resources Management Handbook, (3) Purchasing Handbook, (4) Product Information Handbook, (5) Retail Operations Handbook, (6) Training Handbook, (7) Marketing Handbook, and (8) Visual Merchandising Handbook

You will have an opportunity to review our training handbooks when you visit our corporate headquarters during your qualification process.

ITEM 12

Territory

Under the Franchise Agreement, we grant you an exclusive territory described in Appendix A to the Franchise Agreement (the “Designated Territory”). Your Designated Territory may be smaller than your Reserved Territory under the Reservation Agreement. The size of the Designated Territory will range from a portion of a metropolitan statistical area in a heavily populated city to one or more counties in a rural area. The Franchise Agreement also states the specific location of the store within your Designated Territory. Upon our express written approval, you may temporarily operate an additional location within your Designated Territory.

As long as you are not in default under the Franchise Agreement, we will not establish other stores using our trademark or trade name or grant a franchise that sells similar products under a different trademark or trade name within your Designated Territory.

We may establish other channels of distribution, including the Internet, mail order catalogs, within your Designated Territory for the products and services offered by you under the same trade name and trademarks. You may not market or receive orders for your Store by means of the Internet (including, specifically, any current or future electronic mechanism that promotes, enhances or offers social networking access or opportunities) or catalogs without our prior written approval. We are not required to pay you if we exercise any of the rights specified above inside your Designated Territory.

Despite the above paragraph, franchisees may accept and fill customer orders through a specific third-party web site host, Shopatron. Franchisees who wish to utilize the Shopatron Internet Store model must sign a Retailer Agreement with Shopatron. Under the Shopatron model, customer orders are routed for processing to the Store (the “First Qualifying Store”), from which the product will be shipped to the customer that is (i) in closest geographic proximity to the customer, and (ii) that submits an offer to fulfill that order; provided that Shopatron may route the sale to the next qualifying Store if, as determined by Shopatron, the First Qualifying Store has previously failed to fulfill customer orders in a timely manner and/or has otherwise failed to adhere to the Retailer Agreement. Further, Stores owned by Jim Carpenter (our President and CEO) and Nancy Carpenter (our Director and Vice President) may compete with you to fulfill customer orders on Shopatron; however, these Stores will typically not be selected by Shopatron to fulfill the order if a franchisee located in closer geographic proximity to the customer earlier requests to fulfill the order. (See Item 20 for more information on stores owned by Jim and Nancy Carpenter.) You will pay transaction, shipment, and credit card processing fees directly to Shopatron if you participate in the Shopatron program. We may limit or suspend your participation in the Shopatron Internet Store if you are in default under any provision of the Franchise Agreement. We may discontinue the Shopatron Internet Store altogether upon 30 days’ written notice to you.

We previously offered to existing franchisees the opportunity to operate, on a test basis, a small-sized WILD BIRDS UNLIMITED outlet, such as a kiosk or a gift shop, located within a nature center (such as a state or city park) or other appropriate retail outlet (such as a garden center). The outlet offered a

selection of WILD BIRDS UNLIMITED merchandise. Although we no longer offer this test program, eight test locations remain open and operating.

If the lease for the premises of your store expires or terminates through no fault of yours, or if in your and our judgment there is a change in the character of the location of your store sufficiently detrimental to its business potential to warrant its relocation, we will grant permission for its relocation. We must approve the relocation site.

If you wish to establish an additional franchise within your Designated Territory, you must obtain our permission. In determining whether to grant our approval, we will consider variables such as market viability and your ability to finance and operate the additional franchise.

The Franchise Agreement does not provide you with any options, rights of first refusal or similar rights to acquire additional franchises within your Designated Territory or areas contiguous to your Designated Territory. However, we may agree to grant you such an option according to the terms of the Reservation Agreement.

As long as you are not in default under the Franchise Agreement, the continuation of your territorial protection does not depend upon your achieving a certain sales volume, market penetration or other contingency.

It is understood that customers that reside in your Designated Territory may purchase WILD BIRDS UNLIMITED merchandise, arrange for merchandise delivery to their home or business, and arrange for on-site consultation services at their home or business from you or from any other WILD BIRDS UNLIMITED franchisee or store, including stores located in designated territories assigned to other WILD BIRDS UNLIMITED franchisees. We do not restrict you from servicing customers located outside of your Designated Territory, but you do not have the right to use other channels of distribution to make sales outside your Designated Territory (unless you are selected to fulfill a Shopatron Internet Store order, as noted above).

In determining where to locate a store within your Designated Territory, you should be aware that designated territories will sometimes abut one another. In those cases, franchised stores could be located in close proximity to one another, if the stores are located near their common territory boundary. For this reason, you should investigate the location of stores within neighboring designated territories in making a site selection.

It is understood that the media in which a WILD BIRDS UNLIMITED store outside of your Designated Territory advertises may be distributed or otherwise enter into your Designated Territory. You recognize that we have no control over the distribution and reach of such media and cannot prohibit a franchisee from placing advertising in any media that might reach into your Designated Territory.

ITEM 13

Trademarks

The Franchise Agreement licenses you to use the WILD BIRDS UNLIMITED service mark, as well as other trademarks, service marks, trade names, trade dress and commercial symbols (collectively, the “Marks”). These Marks are set forth in Appendix B to the Franchise Agreement, as amended from time to time. WILD BIRDS UNLIMITED is the owner of the WILD BIRDS UNLIMITED service mark and claims common law trademark rights for all of the Marks. WILD BIRDS UNLIMITED has filed or intends to file all required affidavits and renewals of the Marks listed below.

Principal Trademarks	U.S. Reg. No.	Principal/ Supplemental Register	Registration Date
WILD BIRDS UNLIMITED	1,307,988	Principal	12/4/84
WILD BIRDS UNLIMITED	1,691,873	Principal	6/9/92
Birdfeeder Logo	2,279,535	Principal	9/21/99

There are no agreements currently in effect that significantly limit our right to use or license the use of our Marks in a manner material to you.

There are no presently effective determinations of the USPTO, the Canadian Intellectual Property Office, the Trademark Trial and Appeal Board, the trademark administrator of any state, or any court, or any pending interference, opposition or cancellation proceeding, or any pending material litigation involving our Marks. There are no infringing uses actually known to us which could materially affect your use of our Marks.

You must promptly notify us in writing of any claim, demand, or suit based upon or arising from, or of any attempt by any other person, firm or corporation to use our licensed Marks or any trademark, service mark, symbol, trade name, copyright, or colorable variation of it, in which we have a proprietary interest. You must promptly notify us in writing of any litigation instituted by you, or by any person, firm, corporation or governmental agency against you. If we undertake the defense or prosecution of any litigation, you must sign all documents and do all things as may, in the opinion of our counsel, be necessary to carry out this defense or prosecution, either in the name of WILD BIRDS UNLIMITED or you, as we elect.

If we decide at any time that you should modify or discontinue use of any Mark and/or use one or more additional or substitute trademarks or service marks, you must comply with our decision within a reasonable time after receiving notice of that decision. Your right to use the marks is derived solely from the Franchise Agreement and is limited to the conduct of your business under the Franchise Agreement and all applicable specifications and operating procedures required of you during the term of your Franchise Agreement. All usage of the Marks by you and any goodwill established by that usage will inure to the exclusive benefit of us. You may not, at any time, during the term of the Franchise Agreement or after its termination or expiration, contest the validity or ownership of any of our Marks or assist any other person in contesting the validity or ownership of any of our Marks.

All provisions of the Franchise Agreement applicable to our Marks will apply to any additional trademarks, service marks, logo forms and commercial symbols authorized for use by and licensed to you after this time in relation to the Franchise.

You must use the WILD BIRDS UNLIMITED Mark as the sole identification of your Store, and you must identify yourself as the independent owner of the Store in the manner required by us. You may not use any Mark as part of any corporate name or with any prefix, suffix or other modifying words or designs, or in any modified form, nor may you use any Mark in connection with the sale of any unauthorized product or service or in any other manner not expressly authorized in writing by us.

ITEM 14

Patents, Copyrights and Proprietary Information

We own the following patents: U. S. Patent D329,723 (“Bird Feeder”), September 22, 1992 (with a duration of 14 years), U.S. Patent D414,902 (“Bird Feeder”), issued on October 25, 1999; U.S. Patent D421, 509 (“Bird Feeder/Bird House”), issued on March 7, 2000; U.S. Patent 6,386,142 (“APS Hardware”), issued on May 14, 2002; and U.S. Patent D444,598 (“Bird Feeder”), issued on July 2, 2001. These patents are for specially designed birdfeeders or bird houses which are currently sold only through WILD BIRDS UNLIMITED Stores. Our franchisees, while not being granted a license to use the patents, are currently the exclusive retail source for these products. In addition, we have two pending patent applications that are material to the franchised business being sold. U.S. Patent Application No. 20100175627 was filed on July 15, 2010 and is for a specially designed wild animal care device (bird feeder) having an antimicrobial agent and U.S. Patent Application No. D655,462 for an Animal Feeder Tray was filed on March 6, 2012. Except as noted above, we have no patents or pending patent applications that are material to the franchised business being sold.

There are no copyrights currently registered that are material to the franchise, although we do claim copyright ownership and protection for our WILD BIRDS UNLIMITED Franchise Agreement, web site, advertising material and certain artwork used in promotional and educational brochures and certain handbooks consisting of marketing plans, vendor and supplier sources, business and employee management techniques, product information, store operating procedures (the “Confidential Information”).

There are no currently effective determinations of the Copyright Office (Library of Congress), United States Patent and Trademark Office, Board of Patent Appeals and Interferences, or any court, or any pending infringement, opposition or cancellation proceeding or any pending material litigation involving any patents or copyrights. There are currently no agreements in effect that significantly limit our rights to use or license the use of any patents or copyrights in any manner material to the franchise. There are no infringing uses actually known to us that could materially affect your use of the patents or copyrights.

You must notify us of any infringement, challenges or claim related to our patents and/or Copyright Material. We are not required by any agreement to protect or defend our patents, copyrights or confidential information, although we intend to do so when this action is in the best interest of our franchise system. We reserve the right to control any litigation related to any patents and copyrights and we have the sole right to decide to pursue or settle any infringement actions related to the patents

or copyrights. You must notify us promptly of any infringement or unauthorized use of the patents or copyrights of which you become aware.

You must keep confidential during and after the term of the Franchise Agreement all proprietary information, including the operations handbook. You and your employees, including any Store Manager, must sign a Confidentiality and Non-Competition Agreement, attached as Appendix C to the Franchise Agreement, under which each person agrees not to divulge any of our Confidential Information or unfairly compete with us. Upon termination of your Franchise Agreement, you must return to us all proprietary information, including but not limited to the operations manual and all other copyright material. You must notify us immediately if you learn about an unauthorized use of proprietary information. We are not obligated to take any action and we have the sole right to decide the appropriate response to any unauthorized use of proprietary information. You must comply with all changes to the operations handbook at your cost.

ITEM 15

Obligation to Participate in the Actual Operation of the Franchise Business

Your Store must at all times be under your control and supervision, or the control and supervision of a designated manager who has successfully completed our new store training program (the “Store Manager”).

If you are an individual, we recommend that you be the fully-trained manager described above. We impose no limitations as to who you may have as a Store Manager, except that the Store Manager must complete training and you must comply with all applicable laws and must not harm the goodwill associated with our franchise systems and our Marks (this may affect who you hire as your Store Manager).

The Store Manager must personally supervise in the operations of the Store on a full time basis. The Store Manager must be responsible for the fulfillment of all obligations under the Franchise Agreement and is required to sign a Confidentiality and Non-Competition Agreement in the form attached to the Franchise Agreement.

If you are a legal entity, you may not engage in any business or activities, other than the ownership and operation of your Store and the development, ownership and operation of other WILD BIRDS UNLIMITED Stores under franchise agreements granted by us.

If you are a legal entity, all general partners and all direct and indirect holders of an interest exceeding 10% must sign a written agreement with us personally guaranteeing the performance of all obligations under the Franchise Agreement.

ITEM 16

Restrictions on What the Franchisee May Sell

Your Store may only offer for sale the types of birdfeeders, birdseed and other nature-related products and services that meet the standards and specifications that we establish, although you are not required to obtain our approval for any specific suppliers of those products. We have the right to change our

standards and specifications, and there are no limits on our rights to make changes. You must at all times maintain an inventory of approved birdfeeders, birdseed and other products, sufficient in quantity and variety to realize the full potential of your Store. Unless you have received our prior written consent, you must operate your Store at least 6 days per week, except where the law may prohibit, and your Store must be open no less than 48 hours per week.

You may not, without our prior written consent, offer any types of products or services not related to the hobby of backyard birdfeeding or gardening, nor may your Store be used for any purpose other than the operation of a WILD BIRDS UNLIMITED Store in compliance with the Franchise Agreement. You may only sell birdfeeders, birdseed and other products to retail customers of your Store or other WILD BIRDS UNLIMITED Stores. You may not sell to re-sellers or others who will not be the end users of the products without prior written permission from us. In addition, you may not, sell these products in conjunction with our Marks from any location other than your Store or a temporary site approved by us.

For a description of your restrictions on some purchases, see Item 8 of this Disclosure Document.

Except as noted in this paragraph, we do not impose any restrictions or conditions that limit your access to customers. Except for the Shopatron online ordering system, you may not use other channels of distribution to make sales. In addition, absent our prior approval, which we may grant or deny in our sole business judgment, you may not participate in or use any current or future electronic mechanism that promotes, enhances or offers social networking access or opportunities (such as Facebook, Twitter, LinkedIn and MySpace) and that displays the Marks and/or relates to the Store. We do, however, have a program that permits you to have a Facebook page for your Store, but you must comply with our program standards and guidelines at all times.

ITEM 17

Renewal, Termination, Transfer and Dispute Resolution

THE FRANCHISE RELATIONSHIP

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

Provision	Section in Franchise or Reservation Agreement*	Summary
a. Length of the franchise term	Section 3.01 Reservation Agreement: Section 2	Ten years, beginning on the date you sign the Franchise Agreement. 6 months.
b. Renewal or extension of the term	Section 3.02 Reservation Agreement: Section 2	May renew franchise without payment of additional franchise fee for unlimited number of additional 5 year terms. May renew franchise with payment of renewal fee for an additional 6 month term. If you seek to renew your rights under the Franchise Agreement or Reservation Agreement at the expiration of the term (or any renewal term, if applicable), you may be asked to sign a new agreement that contains terms and conditions materially different from those in your previous agreement, such as different fee requirements and territorial rights.

Provision	Section in Franchise or Reservation Agreement*	Summary
h. "Cause" defined: non-curable defaults	Section 12.01(a)	Defaults that cannot be cured include conviction of a felony, failure to complete our training program, failure to actively operate your Store or abandoning the Store (defined as the failure to continuously operate the Store for a period of 5 or more days), unauthorized assignment of the Franchise Agreement or a Store, disclosure of our confidential information, your bankruptcy whether voluntary or involuntary, failure to submit financial statements twice in a 12-month period, submission of statements that intentionally understate Gross Sales, failure to comply with provisions of the Franchise Agreement four times in a 12-month period, submission of materially misleading information.
i. Franchisee's obligations upon termination/ non-renewal	Sections 12.02, 12.03, Article 13	Provide us with an accounting of all amounts you owe us and pay us within 15 days of termination; pay us for all damages and expenses relating to the termination; surrender your rights under the Franchise Agreement; cease using our trademarks and confidential information; remove signs from the premises; cancel registrations relating to the use of our Marks; return Operations Handbooks; relinquish your WILD BIRDS UNLIMITED telephone number; distinguish your Store from its former appearance; and cease holding yourself out as our franchisee.
j. Assignment of contract by franchisor	Section 14.01	No restriction on our right to assign.
k. "Transfer" by franchisee defined	Section 14.02(a)	Includes voluntary, involuntary, direct or indirect assignment, sale, subdivision, subfranchise or other transfer by you or your owners of all or part of your ownership; includes transfer by merger or consolidation, by issuance of additional securities representing an ownership interest in you, by conversion of a general partnership, by transfer or creation of an interest as a general partner of a partnership, by transfer of an interest in you or in the Franchise Agreement in a divorce proceeding, or in the event of your death or the death of your owner, by will, declaration or a transfer intestate succession.
l. Franchisor approval of transfer by franchisee	Sections 14.02 (b),(c),(d)	We have the right to approve or disapprove transfers of the Franchise Agreement to any legal entity, but will not unreasonably withhold approval if conditions are satisfied.

Provision	Section in Franchise or Reservation Agreement*	Summary
m. Conditions for franchisor approval of transfer	Sections 14.02 (c),(e)	You are current on amounts owed to us; your assignee agrees to complete our training program and pay our then-current training fee; your lessor has agreed to the assignment of your lease; your assignee signs, at our option, an assignment and assumption agreement and other appropriate documents described in § 13.02(c); you or your assignee pays us an assignment fee; you sign a general release and a non-competition covenant; you must subordinate your assignee's obligations to us; the assignee meets our then-current standards for new franchisees generally, including with respect to the assignee's character, business experience, aptitude, and financial resources; you are in full compliance with your obligations under the Franchise Agreement; and the terms of the assignment do not place an undue financial burden on the assignee. If you are a corporation, you must comply with certain restrictions on the transfer of your stock, described in Section 13.02(e) (v).
n. Franchisor's right of first refusal to acquire franchisee's business	Section 14.04	Except in the event of a partial ownership change of Franchisee or partial transfer of the Store, we can match any offer for your business.
o. Franchisor's option to purchase franchisee's business	Section 12.03	We may acquire, upon written notice to you within 30 days of termination, cancellation or expiration of the Franchise Agreement, all or a portion of the assets of the franchise, at the lesser of cost or fair market value.
p. Death or disability of franchisee	Section 14.03(a)	Nothing prevents your spouse or heir succeeding you if the criteria of Section 14 are satisfied; you may transfer your interest by will, declaration of or transfer in trust or by the laws of intestate succession.
q. Non-competition covenants during the term of the franchise	Section 11.08	No involvement by you or members of your immediate family in any competing business, unless the competing store is operating under a franchise agreement granted by us.
r. Non-competition covenants after the franchise is terminated or expires	Article 13	No interest in any competing business for 2 years: (i) at your Store location, (ii) within your Designated Territory, or (iii) within a radius of 10 miles of any other WILD BIRDS UNLIMITED Store, unless the other store is owned by you under a franchise agreement granted by us.
s. Modification of the agreement	Section 16.07(d)	No modifications to the Franchise Agreement except as mutually agreed to in writing by you and us.

Provision	Section in Franchise or Reservation Agreement*	Summary
t. Integration/merger clause	Section 16.05	Only terms of the Franchise Agreement are binding (subject to state law). Any statements or promises outside the disclosure document and Franchise Agreement may not be enforceable.
u. Dispute resolution by mediation or arbitration	Section 15.01	Except for certain claims, all disputes must be arbitrated in Indianapolis, Indiana (subject to state law).
v. Choice of forum	Section 16.12 Reservation Agreement: Section 9	Litigation must be in Hamilton County or Marion County, Indiana (subject to state law). Litigation must be in Hamilton County or Marion County, Indiana (subject to state law).
w. Choice of law	Section 16.11(1) Reservation Agreement: Section 9	Law of the state in which your Store is located. Law of the state in which Reserved Territory is located.

* Unless otherwise noted, section or article references refer to the Franchise Agreement.

Certain states require franchisors to make additional disclosures related to information contained in this Disclosure Document. If applicable, these additional disclosures will be furnished to you in Exhibit C to this Disclosure Document.

ITEM 18

Public Figures

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

ITEM 19

Financial Performance Representations

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

Provided below are six schedules that provide certain information regarding Gross Sales, Cost of Goods Sold, and Wages and Advertising Expenses as reported by our franchisees. Each schedule is described more fully below:

Schedule 1 includes a chart with a summary of fiscal 2010 Gross Sales for those WILD BIRDS UNLIMITED franchises open and operational for at least 12 full months as of December 31, 2010; a summary of fiscal 2011 Gross Sales for those WILD BIRDS UNLIMITED franchises open and operational for at least 12 full months as of December 31, 2011; and a summary of fiscal 2012 Gross Sales for those WILD BIRDS UNLIMITED franchises open and operational for at least 12 full months as of December 31, 2012.

Schedule 2 expands on the fiscal 2012 Gross Sales information presented in Schedule 1, broken down by years of operation. Schedule 2 does not include information for 2 conversion stores that have operated as WILD BIRDS UNLIMITED franchises for 1 to 2 full years. These conversion stores were not included in Schedule 2 because both have more than 5 years of previous operating history before becoming a WILD BIRDS UNLIMITED franchise.

Schedule 3 is a chart showing the actual number of stores that achieved certain Gross Sales levels for 2010, 2011 and 2012, which were open and operational for at least 12 months during that year.

Schedule 4 is a summary of Gross Sales for the first full 12 months of operation for stores that opened between January 1, 2008, and December 31, 2012 who had completed 12 full months of operation as of December 31, 2012. Schedule 4 does not include information for 2 conversion stores that have been in operation for a full 12 months as of December 31, 2012. These conversion stores were not included in Schedule 4 because both have more than 5 years of previous operating history before becoming a WILD BIRDS UNLIMITED franchise.

Schedule 5 is the average monthly sales volume percentage that contributed to the Annual Gross Sales for those WILD BIRDS UNLIMITED franchises open and operational for at least 12 months as of December 31, 2012.

Schedule 6 is the historical average Cost of Goods Sold for products offered by the Stores open a full 12 months in each of 2009, 2010 and 2011, as well as the historical average of Advertising and Wages expenses incurred by first year stores that completed their first year of operation in 2008, 2009, 2010 and 2011.

You should consider the following material factors in reviewing and determining whether to rely on this data:

1. We have compiled the Gross Sales information in this financial performance representation from our Franchisees' monthly sales reports and annual financial statements submitted to us (the "P&L Statements"). The stores included in this financial performance representation range in age from 1 to over 30 years of operation. The financial performance information provided for each 12-month period excludes all stores that were not operational during the entire 12-month period. This information is not audited, and we are unable to verify or warrant its accuracy or the method used by each Franchisee in its computation.

2. The stores included in this financial performance representation represent a variety of geographic and demographic circumstances. These variations in circumstances include: 1) the total population of the city in which the store is located ranges from over 700,000 to less than 1,000; 2) stores are located in a diverse variety of locations throughout the United States and Canada (the

Canadian results have been adjusted to U.S. Dollars per the conversion process outlined in the Canadian Franchise Agreement); 3) a number of the cities in which the stores are located are suburbs of larger metropolitan areas; and 4) some stores located in areas with small populations are in areas with a substantial amount of “tourist” traffic. Also, and as noted in Items 12 and 20, two of WBU’s officers own and operate a WILD BIRDS UNLIMITED store under a franchise agreement with WBU.

3. The stores listed in this financial performance representation are generally located in neighborhood or regional strip shopping centers or freestanding buildings. We make no representations regarding the relative level of first year sales that the various types of locations have experienced.

4. While we grant you a Designated Territory within which we will not grant another franchise or operate another store, the city in which your franchise is located may be geographically smaller or larger than the Designated Territory granted under the Franchise Agreement (see “Item 12, Territory”).

5. Several of the stores included in this financial performance representation operate temporary seasonal kiosks. These sales are included in this Item 19 data as part of our Franchisees’ Gross Sales.

6. Definition of Gross Sales: the sales price of all merchandise and services sold, including cash and charge sales of every kind made at the store, and mail, internet or telephone orders received or taken at the store.

7. Sales and expenses from the 8 small-sized WILD BIRDS UNLIMITED outlets described in Item 1 of this Disclosure Document have been excluded from this analysis as they have characteristics that differ from the traditional retail locations included in this Item 19.

The following actual statements of gross sales, cost of goods sold, wages and advertising expenses and adjusted net operating income reflect the operation of specific franchises and should not be considered as the actual or probable gross sales, cost of goods sold, advertising and wages expenses or adjusted net operating income that you will realize. In addition, these figures do not reflect whether you will have a net profit or loss. Your financial results are likely to differ from the results stated in this Item 19.

SCHEDULE 1

SYSTEM WIDE FISCAL YEAR 2010-2012 GROSS SALES

Performance Category	2010	2011	2012
Number of Stores operating at least 12 months as of December 31 st of stated year	258	258	264
Number of Stores included in this schedule	258	258	264
Time Period Covered	January 1, 2010 – December 31, 2010	January 1, 2011 – December 31, 2011	January 1, 2012 – December 31, 2012
System-wide Average Gross Sales	\$448,636	\$470,792	\$475,462
Number/Percentage of Stores Exceeding Average Gross Sales	110 / 42.64%	106 / 41.09%	109 / 41.29%
System-wide Median Gross Sales	\$410,542	\$433,753	\$427,783
System-wide Range of Actual Gross Sales	\$80,598 - \$1,387,248	\$83,174 - \$1,521,068	\$65,201 - \$1,508,472

SCHEDULE 2

FISCAL YEAR 2012 GROSS SALES BY YEARS OF OPERATION

Each of the stores included in this Schedule 2 has been grouped into one of five categories based on the age of the store as of December 31, 2012. The period covered by Schedule 2 is the 1-year period beginning on January 1, 2012, and ending on December 31, 2012.

Age of Store	Number of Stores in Age Group	Average Gross Sales	Number/Percentage of Stores Exceeding Average Gross Sales	Median Gross Sales	Range of Actual Gross Sales
Stores Operational 1 and 2 Full Years (and up to 35 months)	10	\$248,383	5 / 50.00%	\$251,344	\$101,578 - \$496,196

Age of Store	Number of Stores in Age Group	Average Gross Sales	Number/Percentage of Stores Exceeding Average Gross Sales	Median Gross Sales	Range of Actual Gross Sales
Stores Operational 3 and 4 Full Years (and up to 59 months)	7	\$323,696	3 / 42.86%	\$296,638	\$220,297 - \$488,795
Stores Operational 5 and 6 Full Years (and up to 83 Months)	10	\$360,721	4 / 40.00%	\$356,251	\$207,452 - \$511,569
Stores Operational 7 to 10 Full Years (and up to 131 Months)	60	\$392,820	27 / 45.00%	\$385,885	\$141,208 - \$867,902
Stores Operational 11 to 30 Full Years (and up to 383 Months)	175	\$533,220	77 / 44.00%	\$488,507	\$65,201 - \$1,508,472

SCHEDULE 3

TOTAL NUMBER OF STORES THAT ACHIEVED SPECIFIC GROSS SALES RANGES FROM 2010 THROUGH 2012

Gross Sales Range	2010	2011	2012
\$0.00- \$250,000	46	45	43
\$250,000.01-\$500,000	124	120	125
\$500,000.01-\$750,000	70	62	66
\$750,000.01-\$1,000,000	9	21	20
Over \$1,000,000	9	10	10
Total	258	258	264

SCHEDULE 4

FIRST 12 MONTH GROSS SALES

This Schedule 4 contains a summary of average first full 12 month Gross Sales for stores that opened between January 1, 2008, and December 31, 2012, and that had completed 12 full months of operation.*

Summary of Stores Opened Between January 1, 2008, and December 31, 2012:

- a. Number of franchised Stores Included in Schedule 4: 17
- b. Average first 12 months Gross Sales: \$221,105
- c. Median first 12 months Gross Sales: \$248,809
- d. Range of first 12 months Gross Sales: \$94,592 - \$339,912
- e. Number/Percentage of Stores Exceeding the Average: 9 / 52.94%

* Given that the majority of our Stores do not open on the first day of the month, the financial performance information noted above reflects information for months 2-13 to insure full monthly information is included for all Stores.

SCHEDULE 5

FISCAL YEAR 2012 MONTHLY PERCENTAGES

As of December 31, 2012, 264 WILD BIRDS UNLIMITED stores had been open and in operation for at least the previous 12 full months. The following is a summary of the percentage that, each month, contributed to the Annual Gross Sales for these franchised stores in 2012. To obtain these monthly percentage breakdowns, we added up the total Gross Sales reported by these franchised stores per month, and then divided that total monthly Gross Sales figure into the system-wide Annual Gross Sales figure (as reported by these franchised stores for the entire 12-month period in 2012).

January	6.36%
February	7.27%
March	7.73%
April	7.95%
May	10.32%
June	10.16%
July	8.75%
August	7.38%
September	6.23%
October	7.92%
November	7.93%
December	12.00%
Total	100%

SCHEDULE 6

COST OF GOODS SOLD

Cost of Goods Sold is defined as the actual out of pocket expense to acquire merchandise held for resale, including shipping.

Performance Category	2009	2010	2011
Number of Stores included in Schedule 6	226	239	243
Average Cost of Goods Sold	49.85%	47.99%	50.91%
Number/Percentage of Stores Exceeding Average Cost of Goods Sold	108 / 47.79%	106 / 44.35%	122 / 50.21%
Median Cost of Goods Sold	49.46%	47.50%	50.96%
Range of Actual Cost of Goods Sold	40.54% to 67.16%	36.25% to 65.03%	40.47% to 64.27%

The merchandise sold at WILD BIRDS UNLIMITED stores is classified into the following three categories:

Birdseed: Consumable birdfeeding products, such as seed and suet.

Feeders: Birdfeeders, houses and baths, hanging hardware and other miscellaneous items used in delivering food products to birds and other wildlife.

Gifts: Nature related books, jewelry, apparel and figurines, thermometers, optics and other related decorative items featuring a nature theme.

The Cost of Goods Sold as a percentage of total Gross Sales will vary among the product categories and from product to product within each category, making the overall average percentage highly dependent on the specific product mix chosen by each franchisee. We make no representation as to the Cost of Goods Sold percentages applicable to each product category. It has, however, been our operating experience that, within the range of Cost of Goods Sold percentages a franchisee may experience, birdseed products generally tend to be at the high end of the range. Gift items tend to be at the low end of the range, and hobby products tend to fall in the mid-range.

FIRST YEAR ADVERTISING EXPENSE

Advertising expense is defined as the out of pocket expense that Franchisees spend to market their store, including the cost of printing and mailing customer flyers; television, radio, newspaper and direct-mail advertising. You may decide to place other related expenses into this expense category.

Based on 2008, 2009, 2010 and 2011 first calendar year financial statements from 15 franchised stores who completed their first full calendar year of operation as of 12/31/08, 12/31/09, 12/31/10, or 12/31/11:

- a. Average Advertising Expense: 9.50%
- b. Range: 2.22% to 19.52%
- c. Median: 9.18%
- d. Number/percentage of stores exceeding Average Advertising Expense: 7 / 46.66%

The Advertising expense as a percentage of total Gross Sales will vary from market to market depending on the cost of media advertising and the personal decisions of the individual franchisees. We make no representation as to the Advertising expense percentages applicable to each individual WILD BIRDS UNLIMITED franchise.

FIRST YEAR WAGES EXPENSE

Wages expense is defined as the out-of-pocket expense that franchisees spend to hire non-owners. You may decide to place other related expenses into this expense category. We do not include payroll taxes, workers' compensation, insurance, employee training, employee benefits or any other employee associated costs in this category.

Based on 2008, 2009, 2010 and 2011 first calendar year financial statements from 15 franchised stores who completed their first full calendar year of operation as of 12/31/08, 12/31/09, 12/31/10, or 12/31/11:

- a. Average Wages Expense: 8.50%
- b. Range: 0.00% to 16.66%
- c. Median: 11.02%
- d. Number/Percentage of stores exceeding Average Wage Expense: 9 / 60.00%

The Wage expense as a percentage of total Gross Sales will vary from market to market depending on the cost of hiring employees and the personal decisions of the individual franchisees. We make no representation as to the Wages expense percentages applicable to each individual WILD BIRDS UNLIMITED franchise.

Note:

A. The actual statements of gross sales, cost of goods sold, advertising expenses, wages expenses, adjusted net operating income, and percentage breakdowns detailed above reflect the operation of specific stores and should not be considered as the actual or probable gross sales, income, cost of goods sold or other expense figures that you will realize. Your financial results are likely to differ from the results stated in this Item 19.

B. You are likely to achieve results that are different, possibly significantly and adversely, from the results shown above. Many factors, including location, management capabilities, local market conditions, age of store, and other factors, are unique to each store and may significantly impact the financial performance of your store.

We do not make any promises of representations of any kind that you will achieve any particular results or level of sales or profitability or even achieve break-even results in any particular year of operation.

C. You are responsible for developing your own business plan for your store, including capital budgets, financial statements, projections and other elements appropriate to your particular circumstances. As part of your planning, you need to take into account the expenses you will incur. Expenses that you may incur include, but are not limited to, royalty and marketing fees (see item 6 of this Disclosure Document), interest on debt service, insurance, legal and accounting charges, and depreciation/ amortization. We encourage you to consult with your own accounting, business, and legal advisors to assist you to identify the expenses you likely will incur in connection with your store, to prepare your budgets, and to assess the likely or potential financial performance of your store.

In developing the business plan for your store, you are cautioned to make necessary allowance for changes in financial results to income, expenses, or both, that may result from operation of your store during periods of, or in geographic areas suffering from, economic downturns, inflation, unemployment, or other negative economic influences.

There may be other costs and other expenses not identified. Franchisees or former franchisees, listed in the Disclosure Document, may be one source of information. Written substantiation for the financial performance representation will be made available to the prospective franchisee upon reasonable request.

D. Other than the preceding financial performance representation, Wild Birds Unlimited, Inc. does not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Mr. Paul Pickett, Vice President of Franchise Development, at 11711 N. College Avenue, Suite 146, Carmel, Indiana 46302 and (317) 571-7100, the Federal Trade Commission, and the appropriate state regulatory agencies.

ITEM 20

Outlets and Franchisee Information

Table No. 1

**Systemwide Outlet Summary
For Years 2010 to 2012**

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised Outlets	2010	272	272	0
	2011	272	275	+3
	2012	275	279	+4
Company-Owned	2010	0	0	0
	2011	0	0	0
	2012	0	0	0
	2010	272	272	0
	2011	272	275	+3
	2012	275	279	+4

Table No. 2

**Transfers of Outlets From Franchisees to New Owners
(Other than the Franchisor or an Affiliate)
For Years 2010 to 2012**

State	Year	Number of Transfers
Alabama	2010	0
	2011	0
	2012	1
California	2010	0
	2011	2
	2012	0
Georgia	2010	1
	2011	0
	2012	0

State	Year	Number of Transfers
Illinois	2010	2
	2011	0
	2012	0
Indiana	2010	0
	2011	1
	2012	1
Kansas	2010	0
	2011	1
	2012	0
Massachusetts	2010	0
	2011	0
	2012	1
Michigan	2010	0
	2011	2
	2012	1
Nevada	2010	1
	2011	0
	2012	0
New York	2010	0
	2011	0
	2012	1
North Carolina	2010	1
	2011	0
	2012	0
Pennsylvania	2010	0
	2011	0
	2012	1
Rhode Island	2010	0
	2011	0
	2012	1
South Carolina	2010	0
	2011	1
	2012	0
Texas	2010	0
	2011	0
	2012	1

State	Year	Number of Transfers
Washington	2010	0
	2011	0
	2012	1
U.S. Only Total	2010	5
	2011	7
	2012	9

International Only Total	2010	0
	2011	0
	2012	0

U.S. and International Total	2010	5
	2011	7
	2012	9

Notes:

As of December 31, 2010, 2011 and 2012. States and Provinces not listed had no transfer activity to report during the relevant time period.

Table No. 3
Status of Franchised Outlets
For Years 2010 to 2012*

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
Alabama	2010	5	0	1	0	0	0	4
	2011	4	0	0	0	0	0	4
	2012	4	0	0	0	0	0	4
Arizona	2010	4	1	0	0	0	0	5
	2011	5	0	0	0	0	0	5
	2012	5	0	0	0	0	0	5
Arkansas	2010	1	0	0	0	0	0	1
	2011	1	1	0	0	0	0	2
	2012	2	0	0	0	0	0	2

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
California	2010	11	1	0	0	0	0	12
	2011	12	0	0	0	0	0	12
	2012	12	0	0	0	0	0	12
Colorado	2010	7	0	0	0	0	0	7
	2011	7	1	1	0	0	0	7
	2012	7	0	1	0	0	0	6
Connecticut	2010	3	1	0	0	0	0	4
	2011	4	0	0	0	0	0	4
	2012	4	0	0	0	0	0	4
Delaware	2010	1	0	0	0	0	0	1
	2011	1	0	0	0	0	0	1
	2012	1	0	0	0	0	0	1
Florida	2010	7	0	0	0	0	0	7
	2011	7	1	1	0	0	0	7
	2012	7	0	0	0	0	0	7
Georgia	2010	12	0	0	0	0	0	12
	2011	12	0	0	0	0	0	12
	2012	12	0	1	0	0	0	11
Idaho	2010	2	0	0	0	0	0	2
	2011	2	0	0	0	0	0	2
	2012	2	0	0	0	0	0	2
Illinois	2010	13	0	1	0	0	0	12
	2011	12	0	0	0	0	0	12
	2012	12	0	0	0	0	0	12
Indiana(1)	2010	10	0	1	0	0	0	9
	2011	9	0	0	0	0	0	9
	2012	9	0	0	0	0	0	9
Iowa	2010	3	0	0	0	0	0	3
	2011	3	0	0	0	0	0	3
	2012	3	0	0	0	0	0	3
Kansas	2010	1	1(2)	0	0	0	0	2
	2011	2	0	0	0	0	0	2
	2012	2	0	0	0	0	0	2
Kentucky	2010	1	1	0	0	0	0	2
	2011	2	0	0	0	0	0	2
	2012	2	0	0	0	0	0	2

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
Louisiana	2010	1	0	0	0	0	0	1
	2011	1	0	0	0	0	0	1
	2012	1	1	0	0	0	0	2
Maine	2010	1	0	0	0	0	0	1
	2011	1	0	0	0	0	0	1
	2012	1	0	0	0	0	0	1
Maryland	2010	3	0	0	0	0	0	3
	2011	3	0	0	0	0	0	3
	2012	3	0	0	0	0	0	3
Massachusetts	2010	7	0	0	0	0	0	7
	2011	7	0	0	0	0	0	7
	2012	7	0	0	0	0	0	7
Michigan	2010	15	1	0	0	0	0	16
	2011	16	1	0	0	0	0	17
	2012	17	0	0	0	0	0	17
Minnesota	2010	6	0	1(3)	0	0	0	6
	2011	6	0	0	0	0	0	6
	2012	6	1	0	0	0	0	7
Mississippi	2010	1	0	0	0	0	0	1
	2011	1	0	0	0	0	0	1
	2012	1	0	0	0	0	0	1
Missouri	2010	10	0	0	0	0	1(3)	9
	2011	9	0	1	0	0	0	8
	2012	8	0	0	0	0	0	8
Montana	2010	2	0	0	0	0	0	2
	2011	2	0	0	0	0	0	2
	2012	2	0	0	0	0	0	2
Nebraska	2010	1	0	0	0	0	0	1
	2011	1	0	0	0	0	0	1
	2012	1	0	0	0	0	0	1
Nevada	2010	1	2	0	0	0	0	3
	2011	3	0	0	0	0	0	3
	2012	3	0	0	0	0	0	3
New Hampshire	2010	3	0	0	0	0	0	3
	2011	3	0	0	0	0	0	3
	2012	3	0	0	0	0	0	3

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
New Jersey	2010	7	0	0	0	0	0	7
	2011	7	0	1	0	0	0	6
	2012	6	0	0	0	0	0	6
New Mexico	2010	3	0	0	0	0	0	3
	2011	3	0	0	0	0	0	3
	2012	3	0	0	0	0	0	3
New York	2010	8	0	0	0	0	0	8
	2011	8	0	0	0	0	1(4)	7
	2012	7	0	0	0	0	0	7
North Carolina	2010	18	0	1	0	0	0	17
	2011	17	0	0	0	0	0	17
	2012	17	0	0	0	0	0	17
Ohio	2010	16	0	0	0	0	0	16
	2011	16	0	0	0	0	0	16
	2012	16	0	0	0	0	0	16
Oklahoma	2010	3	0	0	0	0	0	3
	2011	3	0	0	0	0	0	3
	2012	3	0	0	0	0	0	3
Oregon	2010	4	0	0	0	0	0	4
	2011	4	0	0	0	0	0	4
	2012	4	0	0	0	0	0	4
Pennsylvania	2010	10	0	1	0	0	0	9
	2011	9	0	0	0	0	0	9
	2012	9	0	0	0	0	0	9
Rhode Island	2010	1	0	0	0	0	0	1
	2011	1	0	0	0	0	0	1
	2012	1	0	0	0	0	0	1
South Carolina	2010	9	0	0	0	0	0	9
	2011	9	0	0	0	0	0	9
	2012	9	1	0	0	0	0	10
Tennessee	2010	7	0	0	0	0	0	7
	2011	7	0	0	0	0	0	7
	2012	7	0	0	0	0	0	7
Texas	2010	14	0	1	0	0	0	13
	2011	13	1	0	0	0	0	14
	2012	14	0	0	0	0	0	14

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
Virginia	2010	9	0	0	0	0	0	9
	2011	9	0	0	0	0	0	9
	2012	9	0	0	0	0	0	9
West Virginia	2010	1	0	1	0	0	0	0
	2011	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0
Wisconsin	2010	8	0	0	0	0	0	8
	2011	8	0	0	0	0	0	8
	2012	8	0	0	0	0	0	8
Washington	2010	9	0	0	0	0	0	9
	2011	9	1	0	0	0	0	10
	2012	10	1	0	0	0	0	11
U.S. Only Total	2010	259	8(2)	7(3)	0	0	1(2)	259
	2011	259	6	4	0	0	1(4)	260
	2012	260	4	2	0	0	0	262

Province	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
Alberta	2010	0	0	0	0	0	0	0
	2011	0	0	0	0	0	0	0
	2012	0	1	0	0	0	0	1
British Columbia	2010	5	0	0	0	0	0	5
	2011	5	2	0	0	0	0	7
	2012	7	0	0	0	0	0	7
Manitoba	2010	1	0	0	0	0	0	1
	2011	1	0	0	0	0	0	1
	2012	1	0	0	0	0	0	1
Ontario	2010	7	0	0	0	0	0	7
	2011	7	0	0	0	0	0	7
	2012	7	1	0	0	0	0	8
International Only Total	2010	13	0	0	0	0	0	13
	2011	13	2	0	0	0	0	15
	2012	15	2	0	0	0	0	17

Province	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
U.S. & International Total	2010	272	8(2)	7(3)	0	0	1(2)	272
	2011	272	8	4	0	0	1(4)	275
	2012	275	6	2	0	0	0	279

Notes:

As of December 31, 2010, 2011 and 2012. States and Provinces not listed had no franchised activity to report during the relevant time period. If multiple events occurred affecting an outlet, this table shows the event that occurred last in time.

- (1) As further noted in Exhibit F, Jim and Nancy Carpenter are franchisees of one WILD BIRDS UNLIMITED Store in Indianapolis, Indiana. As also noted in Exhibit F, Nancy's brother, Ben Roush, is a WILD BIRDS UNLIMITED franchisee, owning and operating a store in Ft. Wayne, IN.
- (2) The franchise operated by Doc and Diane Gover, located in Kansas City, MO, was relocated to Leawood, KS in 2010.
- (3) The Franchise Agreement for the Maple Grove, MN outlet was terminated in 2010, however, the franchisee ceased operations at this location in 2009.
- (4) The franchise operated by Dan and Anne Kenlon in Corning, NY ceased operations in July 2011. The franchise was purchased by Chris Keelty in 2012. Mr. Keelty has signed a lease and is expected to be operational in 2013.

Table No. 4

**Status of Company-Owned Outlets
For Years 2010 to 2012**

Column 1 State	Column 2 Year	Column 3 Outlets at Start of Year	Column 4 Outlets Opened	Column 5 Outlets Reacquired from Franchisees	Column 6 Outlets Closed	Column 7 Outlets Sold to Franchisees	Column 8 Outlets at End of the Year
Total	2010	0	0	0	0	0	0
	2011	0	0	0	0	0	0
	2012	0	0	0	0	0	0

Table No. 5**Projected Openings as of December 31, 2012**

State	Franchised Agreements Signed But Not Opened	Projected New Franchised Outlets in the next Fiscal Year	Projected New Company-Owned Outlets in the next Fiscal Year
Alabama	0	0	0
Alaska	0	0	0
Arizona	1	1	0
Arkansas	0	1	0
California	1	1	0
Colorado	0	1	0
Connecticut	0	0	0
Delaware	0	0	0
District of Columbia	0	0	0
Florida	0	1	0
Georgia	0	0	0
Hawaii	0	0	0
Idaho	0	0	0
Illinois	0	0	0
Indiana	0	1	0
Iowa	0	0	0
Kansas	0	1	0
Kentucky	0	1	0
Louisiana	0	1	0
Maine	0	0	0
Maryland	1	1	0
Massachusetts	0	1	0
Michigan	0	0	0
Minnesota	0	1	0
Mississippi	0	0	0
Missouri	0	0	0
Montana	0	0	0
Nebraska	0	0	0
Nevada	0	0	0

State	Franchised Agreements Signed But Not Opened	Projected New Franchised Outlets in the next Fiscal Year	Projected New Company-Owned Outlets in the next Fiscal Year
New Hampshire	0	0	0
New Jersey	0	0	0
New Mexico	0	0	0
New York	2	1	0
North Carolina	0	0	0
North Dakota	0	0	0
Ohio	0	0	0
Oklahoma	0	0	0
Oregon	1	1	0
Pennsylvania	0	0	0
Rhode Island	0	0	0
South Carolina	0	0	0
South Dakota	0	0	0
Tennessee	0	0	0
Texas	1	1	0
Utah	0	0	0
Vermont	0	0	0
Virginia	0	0	0
West Virginia	0	0	0
Washington	1	0	0
Wisconsin	0	0	0
Wyoming	0	0	0
Alberta	0	1	0
Saskatchewan	1	1	0
Total	9	17	0

Exhibit F lists the names of all our operating franchisees and the addresses and telephone numbers of their Stores as of December 31, 2012. Exhibit F also lists the franchisees that have signed Franchise Agreements for Stores which were not yet operational as of December 31, 2012. Additionally, Exhibit F lists the name, city and state, and business telephone number (or, if unknown, the last known home telephone number) of every franchisee who had an outlet terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under a 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. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

During the last 3 fiscal years, some franchisees have signed confidentiality clauses. In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with us. 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.

The WILD BIRDS UNLIMITED Franchise Advisory Council (“FAC”) and WILD BIRDS UNLIMITED Advertising Council (“WBUAC”) are each sponsored by us. You can reach the FAC or WBUAC at 11711 N. College Ave., Suite 146, Carmel, Indiana 46032 and (317) 571-7100.

ITEM 21

Financial Statements

Attached to this Disclosure Document as Exhibit G are the audited balance sheets of WILD BIRDS UNLIMITED as of December 31, 2012, 2011 and 2010, and the related statements of income and retained earnings and cash flows for each of the years then ended.

ITEM 22

Contracts

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

- Exhibit B - Reservation Agreement
- Exhibit C - Franchise Agreement (including Appendices)
- Exhibit D - Initial Franchise Fee Amendment (Additional Store)
- Exhibit E - Authorization and Gift Card Participation Agreement
- Exhibit H-1 - Checklist of Mutual Understanding (New Franchisee)
- Exhibit H-2 - Checklist of Mutual Understanding (Renewal Franchisee)
- Exhibit I - Daily Savings Club[®] Enrollment Form
- Exhibit J - Form of General Release

ITEM 23

Receipts

Two copies of an acknowledgment of your receipt of this Disclosure Document appear as Exhibit K. Please return one copy to us and retain the other for your records.

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE DISCLOSURE DOCUMENT FOR THE
STATE OF CALIFORNIA

Wild Birds Unlimited, Inc. is an Indiana corporation.

The following information applies to franchises and franchisees subject to the California Franchise Investment Act. Item numbers correspond to those in the main body.

THE CALIFORNIA INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF CORPORATIONS. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF CORPORATIONS AT www.corp.ca.gov.

SECTION 31125 OF THE FRANCHISE INVESTMENT LAW REQUIRES US TO GIVE TO YOU A DISCLOSURE DOCUMENT APPROVED BY THE COMMISSIONER OF CORPORATIONS BEFORE WE ASK YOU TO CONSIDER A MATERIAL MODIFICATION OF YOUR FRANCHISE AGREEMENT.

Item 3

Item 3 is amended to provide that neither we nor any other person identified in Item 2 is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a et seq., suspending or expelling such persons from membership in such association.

Item 17

1. California Business & Professions Code Sections 20000 through 20043 provide rights to you concerning termination or nonrenewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.
2. Termination of the franchise agreement by us because of your insolvency or bankruptcy may not be enforceable under applicable federal law (11 U.S.C.A. 101 et seq.).
3. 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.
4. You must sign a general release if you transfer your franchise. This provision may be unenforceable under California law. 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).

5. The franchise agreement requires binding arbitration. The arbitration will occur at Indianapolis, Indiana with the costs being borne by the non-prevailing party. You 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.
6. The franchise agreement requires application of the laws of Indiana. This provision may not be enforceable under California law.
7. The Franchise Agreement contains a waiver of punitive damages and jury trial provision.

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE DISCLOSURE DOCUMENT FOR THE
STATE OF ILLINOIS

The following information applies to franchises and franchisees subject to the Illinois Franchise Disclosure Act of 1987. The Item number corresponds to those in the main body.

Item 17

For Illinois franchisees, Illinois law governs the franchise agreement. The conditions under which the franchise can be terminated and rights upon nonrenewal may be affected by Illinois law. Any provision in a franchise agreement that designates exclusive jurisdiction or venue in a forum outside of Illinois is void.

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE DISCLOSURE DOCUMENT FOR THE
STATE OF MARYLAND

The following applies to franchises and franchisees subject to Maryland statutes and regulations. The Item number corresponds to those in the main body.

Item 8 is supplemented by the addition of the following language:

“We are the sole supplier of certain products associated with the Gift Card Program and the Daily Savings Club® Customer Loyalty Program, as well as certain office supplies (employee file folders). We believe that the amounts you pay to us for these products is equal to or less than the prevailing market price you would pay if you purchased these items directly from the vendor(s).

If we are no longer able to provide you with the certain Gift Card Program and Daily Savings Club® Customer Loyalty Program products or the employee file folders, we will endeavor to provide such products through one or more alternate suppliers at comparable cost.”

Item 17

1. Any claims arising under the Maryland Franchise Registration and Disclosure law must be brought within 3 years after we grant you a WILD BIRDS UNLIMITED franchise.
2. Our termination of the Franchise Agreement because of your bankruptcy may not be enforceable under applicable federal law (11 U.S.C.A. 101 et seq.)
3. Franchisee may sue Franchisor in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.
4. The general release required as a condition of renewal, sale and/or assignment/transfer will not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE DISCLOSURE DOCUMENT FOR THE
STATE OF MINNESOTA

The following applies to franchises and franchisees subject to Minnesota statutes and regulations. Item numbers correspond to those in the main body.

Item 13

Pursuant to the Franchise Agreement, we will indemnify you against, and reimburse you for, all damages for which you are held liable in any proceeding arising out of your use of any Mark pursuant to and in compliance with the Franchise Agreement. We will also reimburse you for all costs reasonably incurred by you in the defense of any such claim brought against you in any such proceeding in which you are named as a part. You must timely notify us of such claim or proceeding and comply with the Franchise Agreement.

Item 17

1. Minnesota law provides you with certain termination and nonrenewal rights. As of the date of this Disclosure Document, Minn. Stat. Sec. 80C.14, Subd. 3, 4 and 5 require, except in certain specified cases, that you be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for nonrenewal of the Franchise Agreement.
2. Minn. Stat. § 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the Disclosure Document or Franchise Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.
3. In the event you breach or threaten to breach any of the terms of this Agreement, we will be entitled to seek an injunction restraining such breach and/or to a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and other costs incurred in obtaining said equitable relief, until such time as the arbitrators make a final and binding determination.
4. No release language set forth in the Franchise Agreement shall relieve Franchisor or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Minnesota, provided, that this part will not bar the voluntary settlement of disputes.

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE DISCLOSURE DOCUMENT FOR THE
STATE OF NEW YORK

The following information applies to franchises and franchisees subject to New York statutes and regulations. Item numbers correspond to those in the main body.

We may, if we choose, negotiate with you about items covered in the Franchise Disclosure Document. However, we cannot use the negotiating process to prevail upon you to accept terms which are less favorable than those set forth in this Disclosure Document.

Item 3

Except as described below, neither franchisor, its predecessor or any person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. Has an administrative, criminal or civil action pending against that person alleging: a felony; a violation of a franchise, antitrust or securities law; fraud, embezzlement, fraudulent conversion, misappropriation of property; unfair or deceptive practices or comparable civil or misdemeanor allegations, including pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

B. Has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the ten-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud or securities law; fraud, embezzlement, fraudulent conversion or misappropriation of property, or unfair or deceptive practices or comparable allegations.

C. Is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a federal, State or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

Item 4

Neither the franchisor, its affiliates, its predecessor, officers or general partners has, during the 10-year period immediately before the date of this Disclosure Document: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during

or within one year after the officer or general partner of the franchisor held this position in the company or partnership.

Item 17 c

Provided, however, that all rights arising in your favor from the provisions of Article 33 of the GBL of the State of N.Y. and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of GBL, sections 687.4 and 687.5 be satisfied.

Item 17 d

The franchisee may terminate the agreement on any grounds available by law.

Item 17 j

However, no assignment will be made except to an Assignee who, in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor's obligations under the Franchise Agreement.

Item 17 w

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE DISCLOSURE DOCUMENT FOR THE
STATE OF NORTH DAKOTA

The following applies to franchises and franchisees subject to North Dakota statutes and regulations. Item numbers correspond to those in the main body:

Item 17

1. Covenants not to compete such as those mentioned in Item 17 may be subject to Section 9-08-06 of the North Dakota Century Code and unenforceable in the State of North Dakota if contrary to Section 9-08-06.
2. Notwithstanding anything contained in Section 15.01 of the Franchise Agreement, any arbitration proceeding will take place in Fargo, North Dakota, or at such other location as may be mutually agreed upon by the parties.
3. Any claims under the North Dakota Franchise Investment Law may be brought in the State of North Dakota.
4. The North Dakota Securities Commissioner has held that requiring franchisees to consent to the jurisdiction of courts outside of North Dakota is unfair, unjust or inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law.
5. The North Dakota Securities Commissioner has held that franchise agreements, which specify that they are to be governed by the laws of a state other than North Dakota are unfair, unjust or inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law.
6. The parties' waiver of their right to claim punitive damages may not be enforceable under North Dakota law.
7. The parties' waiver of their right to trial by jury may not be enforceable under North Dakota law.
8. You must sign a general release if you renew your franchise. This provision may be unenforceable under Section 51-19-09 of the North Dakota Franchise Investment Law.
9. Nothing contained in Article 12 of the Franchise Agreement shall be construed as to require you to consent to any termination penalties, as such penalties are unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law.

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE DISCLOSURE DOCUMENT FOR THE
STATE OF RHODE ISLAND

The following information applies to franchises and franchisees subject to Rhode Island statutes and regulations. Item numbers correspondence to those in the main body.

Item 17

The Rhode Island Franchise Investment Act at Section 19-28.1-14 provides that “a provision in a franchise agreement restricting jurisdiction or venue to a forum outside of this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act.”

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE DISCLOSURE DOCUMENT FOR THE
STATE OF VIRGINIA

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for Wild Birds Unlimited, Inc. for use in the Commonwealth of Virginia shall be amended as follows:

“Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any ground for default or termination stated in the franchise agreement does not constitute “reasonable cause,” as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.”

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE DISCLOSURE DOCUMENT FOR THE
STATE OF WASHINGTON

1. Item 17 of the Franchise Disclosure Document is hereby amended by the addition of the following language:

Washington law RCW 19.100.180(2)(i) and (j) provides certain rights and remedies to franchisees in connection with termination or renewal of a franchise. More specifically, Washington law provides that it is unlawful for a franchisor to:

(i) Refuse to renew a franchise without fairly compensating the franchisee for the fair market value, at the time of expiration of the franchise, of 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 franchise business; provided, that compensation need not be made to the 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 the franchisor may offset against amounts owed to the franchisee under this subsection any amounts owed by the franchisee to the franchisor.

(j) Terminate the 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 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 agreement upon any subsequent willful and material breach of the same term within the twelve-month period without providing notice or opportunity to cure; provided further, that the franchisor may terminate the franchise without giving prior notice or opportunity to cure a default if the franchisee: (i) it adjudicated a bankrupt or insolvent; (ii) makes an assignment for the benefit of creditors or similar disposition of the assets of the franchise business; (iii) voluntarily abandons the franchise business; or (iv) is convicted of or pleads guilty or no contest to a charge of violating any law relating to the franchise 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 franchise business; and (iii) if the franchisee is to retain control of the premises of the franchise business, any inventory and supplies not purchased from the franchisor or on his express requirement; provided, that the franchisor may offset against amounts owed to the franchisee under this subsection any amounts owed by the franchisee to the franchisor.

2. Washington law RCW 19.100.180(2)(g) provides that it is unlawful to require the franchisee to assent to a release, assignment, violation or waiver which would relieve the franchisor from any liability imposed by the Washington Franchise Investment Protection Act.

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE DISCLOSURE DOCUMENT FOR THE
STATE OF WISCONSIN

The following information applies to franchises and franchisees subject to the Wisconsin Fair Dealership Law. The Item number corresponds to those in the main body.

Item 17

1. For all franchisees residing in the State of Wisconsin, we will provide you at least 90 days' prior written notice of termination, cancellation, or substantial change in competitive circumstances. The notice will state all the reasons for termination, cancellation, or substantial change in competitive circumstances and will provide that you have 60 days in which to cure any claimed deficiency. If this deficiency is cured within 60 days, the notice will be void. If the reason for termination, cancellation, or substantial change in competitive circumstances is nonpayment of sums due under the franchise, you will have 10 days to cure the deficiency.

2. For Wisconsin franchisees, Ch. 135, Stats., the Wisconsin Fair Dealership Law, supersedes any provisions of the Franchise Agreement or a related contract which is inconsistent with the Law.

Exhibit A

STATE AGENCIES AND AGENTS FOR SERVICE OF PROCESS

STATE AGENCIES AND AGENTS FOR SERVICE OF PROCESS

<p><u>CALIFORNIA</u> California Corporations Commissioner Department of Corporations State of California 320 West 4th Street Los Angeles, California 90013-2344 1-866-275-2677</p>	<p><u>MICHIGAN</u> Consumer Protection Division Attn.: Franchise 670 Williams Building Lansing, Michigan 48913</p>	<p><u>RHODE ISLAND</u> Rhode Island Department of Business Regulation Securities Section 1511 Pontiac Avenue John O. Pastore Center Building 69-1 Cranston, Rhode Island 02920</p>
<p><u>ILLINOIS</u> Attorney General State of Illinois 500 South Second Street Springfield, Illinois 62706</p>	<p><u>MINNESOTA</u> Commissioner of Commerce Minnesota Department of Commerce 85 7th Place East, Suite 500 St. Paul, Minnesota 55101</p>	<p><u>SOUTH DAKOTA</u> Department of Labor and Regulation Division of Securities 445 East Capitol Avenue Pierre, South Dakota 57501-3185</p>
<p><u>INDIANA</u> <u>Agent for Service of Process</u> Indiana Secretary of State 201 State House 200 West Washington Street Indianapolis, Indiana 46204</p> <p><u>State Administrator</u> Securities Commissioner Indiana Securities Division 302 West Washington, Room E-111 Indianapolis, Indiana 46204</p>	<p><u>NEW YORK</u> <u>Agent to Receive Process</u> Secretary of State State of New York 41 State Street Albany, New York 12231</p> <p><u>State Administrator</u> New York State Department of Law Bureau of Investor Protection and Securities 120 Broadway, 23rd Floor New York, New York 10271</p>	<p><u>VIRGINIA</u> <u>Agent to Receive Process</u> Clerk of the State Corporation Commission 1300 East Main Street, 1st Floor Richmond, Virginia 23219</p> <p><u>State Administrator</u> State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street 9th Floor Richmond, Virginia 23219</p>
<p><u>MARYLAND</u> <u>Agent to Receive Process</u> Securities Commissioner Division of Securities 200 St. Paul Place Baltimore, Maryland 21202-2020</p> <p><u>State Authority</u> Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, Maryland 21202</p>	<p><u>NORTH DAKOTA</u> North Dakota Securities Department State Capitol, 5th Floor 600 East Boulevard Avenue Bismarck, North Dakota 58505-0510</p>	<p><u>WASHINGTON</u> Director Department of Financial Institutions Securities Division P.O. Box 9033 Olympia, Washington 98507</p>
		<p><u>WISCONSIN</u> Division of Securities Department of Financial Institutions 345 W. Washington Avenue, 4th Floor Madison, Wisconsin 53703</p>

Exhibit B

RESERVATION AGREEMENT

RESERVATION AGREEMENT

THIS AGREEMENT is made and entered into as of the Effective Date (defined below) by and between Wild Birds Unlimited, Inc., an Indiana corporation, with its principal office at 11711 N. College Ave., Suite 146, Carmel, IN 46032 (“we” or “us”) and the parties set forth in the attached Appendix (“you”).

RECITALS

- A. We, as a result of the expenditure of time, skill, effort and money, have developed a proprietary system for developing and operating businesses specializing in the retail marketing of birdfeeders, birdseed and other nature-related items to the general public (“WILD BIRDS UNLIMITED® Business”).
- B. You desire to reserve, for the term of this Agreement, an option to establish a WILD BIRDS UNLIMITED Business within the geographic territory described in the Appendix to this Agreement (the “Reserved Territory”).
- C. We desire to grant you the option upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the above, the parties agree as follows:

AGREEMENTS

1. Reservation. We grant to you the right to establish a WILD BIRDS UNLIMITED Business within the Reserved Territory during the term of this Agreement. You acknowledge that the Reserved Territory may be larger than the territory granted to you under the terms of a Franchise Agreement entered into between the parties if you determine to establish a WILD BIRDS UNLIMITED Business within the Reserved Territory.
2. Term. This Agreement will terminate at the earlier of: 1) 6 months from the date of execution of this Agreement; 2) the date on which the parties execute a Franchise Agreement for a franchise within the Reserved Territory; or 3) the date on which you notify us in writing that you are no longer interested in pursuing the franchise opportunity with us. Upon termination, you must comply with the terms of Section 6 herein. This Agreement may, upon your request and our consent, be renewed for one additional period of 6 months.
3. Fees.
 - 3.1 Initial Reservation Fee. You must pay an Initial Reservation Fee to us. If you are a prospective franchisee, the fee is \$4,000. If you are an existing franchisee, the fee is \$2,000. The attached Appendix sets forth whether you are a prospective franchisee new to the WILD BIRDS UNLIMITED System or an existing franchisee.
 - 3.2 Renewal Reservation Fee. In the event that we agree to permit renewal of this Agreement for an additional period of 6 months, you must pay a Renewal Reservation Fee to us. If you are a prospective franchisee, the fee is \$4,000. If you are an existing franchisee, the fee is \$2,000. The attached Appendix sets forth whether you are a prospective franchisee new to the WILD BIRDS UNLIMITED System or an existing franchisee.

3.3 Refundability. All sums paid to us under the terms of this Agreement are non-refundable; provided, however, that in the event you execute a Franchise Agreement with us, all sums paid to us under the terms of this Agreement will reduce by a corresponding amount the Initial Franchise Fee payable to us under the Franchise Agreement.

4. Site Selection. While we reserve the right to accept or reject any proposed store location, the selection of any such location is your sole responsibility. We will not unreasonably withhold our approval of a selected location and may provide advice and assistance to you in identifying potential locations. Our acceptance of any store location simply means that the location meets our then-current site selection criteria. You may not construe any advice or assistance as our representation, assurance or guarantee as to the probability or level of success you can expect to attain at such location.

5. Franchise Agreement. You acknowledge and understand that this Reservation Agreement is intended to grant you the right to open a WILD BIRDS UNLIMITED Business within the Reserved Territory under our current form of Franchise Agreement at the time of its execution. However, if you choose to execute a Franchise Agreement before the expiration of the initial term of this Reservation Agreement, the Initial Franchise Fee and ongoing royalty will be the same as described in the Franchise Agreement being offered at the time of execution of this Reservation Agreement. In all other respects, we have the right to alter or amend the form and content of the Franchise Agreement that you sign.

6. Acknowledgement. You acknowledge that this Reservation Agreement grants you the right to become a WILD BIRDS UNLIMITED franchisee and open a WILD BIRDS UNLIMITED Business. Further, except as noted herein, you acknowledge that you may not represent or hold yourself out as a WILD BIRDS UNLIMITED franchisee, or otherwise use any of our trademarks or other proprietary information, until a Franchise Agreement is executed by you and us. Notwithstanding the previous provisions, you may use the words "Wild Birds Unlimited" as a d/b/a entity name for limited business planning purposes, including executing a lease, obtaining financing and licensure, contracting with various utilities, and other similar business preparation activities. If this Reservation Agreement terminates or expires, your limited right to use the words "Wild Birds Unlimited" expires, and all references to the words "Wild Birds Unlimited" must be removed or deleted from any contracts, financing and any other documents which are then in effect or under consideration between you and any third party. You further acknowledge and agree that you (not Wild Birds Unlimited, Inc.) are solely responsible for any expenses incurred during any period of your authorized use of the words "Wild Birds Unlimited."

7. Confidentiality. During the term of this Agreement, you may gain access to or receive certain information concerning our business, our prospects and our franchise system. You acknowledge and agree that any such information must be regarded as confidential and proprietary to us and you may not divulge or utilize same except in the development and operation of a WILD BIRDS UNLIMITED Business.

8. Notices. Any and all notices required to be given under this Agreement must be in writing and sent by certified mail to us at 11711 N. College Avenue, Suite 146, Carmel, Indiana 46032, and if to you, at the location designated in the Appendix, or to such other address as either party may designate in writing. All payments you owe and pay to us must be sent to our above address.

9. Miscellaneous. The parties' rights and obligations under this Agreement will be governed by, and the relationship of the parties is governed by and will be interpreted in accordance with, the laws (statutory and otherwise) of the state in which the Reserved Territory is located. You waive the rights

and protections that might be provided through the laws of Indiana relating to franchises or dealerships or business opportunities, unless you are an Indiana resident or your Store and/or Reserved Territory is located in Indiana. If any provisions of this Agreement are declared invalid or unenforceable by a court of competent jurisdiction, such provision will be deemed not to be a part of this Agreement, and the parties agree to remain bound by all remaining provisions. The parties agree that any suit, action or proceeding with respect to this Reservation Agreement must be brought in any state court of competent jurisdiction located in Hamilton County in the State of Indiana or any Federal court of competent jurisdiction located in Marion County in the State of Indiana, and the parties waive any questions of personal jurisdiction or venue for the purposes of carrying out this provision.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

“WE”:

WILD BIRDS UNLIMITED, INC., an Indiana corporation

By:

James R. Carpenter, President

Effective Date: _____

“YOU”:

(if “you” are a partnership or sole proprietorship)

Signature

Signature

Print Name

Print Name

Date: _____

Date: _____

(if “you” are a corporation or limited liability company)

(Name of Corporation or LLC)

By: _____
Signature

a(n) _____ corporation

Print Name

Print Title

Date: _____

APPENDIX
TO RESERVATION AGREEMENT

1. PROSPECT INFORMATION:

A. Type of Prospect:

1. _____ Individual(s) _____ Partnership _____ Corporation _____ LLC
2. _____ Prospective Franchisee _____ Existing Franchisee

B. Name (if not Individual(s)):

C. List each individual shareholder, partner or manager of the Prospect identified in A above:

- | | | |
|----|----------------------|----------------------|
| 1. | NAME _____ | 2. NAME _____ |
| | STREET _____ | STREET _____ |
| | STATE/ZIP _____ | STATE/ZIP _____ |
| | % OF OWNERSHIP _____ | % OF OWNERSHIP _____ |
| 3. | NAME _____ | 4. NAME _____ |
| | STREET _____ | STREET _____ |
| | STATE/ZIP _____ | STATE/ZIP _____ |
| | % OF OWNERSHIP _____ | % OF OWNERSHIP _____ |

2. RESERVED TERRITORY DESCRIPTION:

3. PROSPECT'S AGENT FOR NOTICES:

A. Name _____

B. Address (if different from address in C above):

STREET _____

CITY _____

STATE/ZIP _____

Exhibit C

FRANCHISE AGREEMENT (INCLUDING APPENDICES)

WILD BIRDS UNLIMITED[®] Agreement

Between

Wild Birds Unlimited, Inc.
11711 N. College Avenue, Suite 146
Carmel, Indiana 46032
(317) 571-7100

And

Name of Franchisee

Street

City

State

Zip Code

Area Code

Telephone

Effective Date:

(To be completed by Us)

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WILD BIRDS UNLIMITED® FRANCHISE AGREEMENT

This Agreement is made and entered into by and between Wild Birds Unlimited, Inc., an Indiana corporation, with its principal office at 11711 N. College Avenue, Suite 146, Carmel, Indiana 46032 (“we” or “us”) and the individual(s) or entity set forth in Appendix A (“you”), with an Effective Date as noted on the Cover Page.

RECITALS

A. We, as a result of the expenditure of time, skill, effort and money, have developed a proprietary system for developing businesses specializing in the retail marketing of birdfeeders, birdseed and other nature-related items to the general public through WILD BIRDS UNLIMITED stores.

B. We own the WILD BIRDS UNLIMITED® trademark and other trademarks, service marks, logo types and other commercial symbols used in connection with the operation of a WILD BIRDS UNLIMITED store.

C. You desire to own and operate one WILD BIRDS UNLIMITED store, offering the products and services we authorize and approve and using the WILD BIRDS UNLIMITED trademark, and we, in reliance on your representations, agree to grant you the right to operate a WILD BIRDS UNLIMITED store in accordance with the terms and conditions of this Agreement.

D. You acknowledge that you have conducted an independent investigation of the business contemplated by this Agreement and recognize that it involves business risks that make the success of the venture largely dependent upon your abilities.

In consideration of the foregoing and the mutual covenants and consideration below, you and we agree as follows:

ARTICLE 1. DEFINITIONS

Section 1.01 Gross Sales. “Gross Sales” are the revenues and receipts from the sale of all merchandise and services sold, including cash sales, charge sales and exchanges or trades of every kind and nature, including any bulk or pre-paid customer sales made at or from your WILD BIRDS UNLIMITED Store or any temporary site and includes mail, internet, email or telephone orders received or filled at the premises. Refunds and allowances to customers must be deducted from the sale price of merchandise sold and charges made for services performed. Each sale upon installment, credit, or lay-away must be treated as a sale upon receipt of payment from the customer. The term “Gross Sales” does not include any sums collected and paid out for any sales, occupation, excise or other tax based upon or measured by the sale or sales price of merchandise, which is levied by the federal, any state, or local government, provided that no deduction from Gross Sales will be allowed for internet participation fees, credit card processing fees, income taxes, gross receipt taxes or other similar taxes.

Section 1.02 Store. “Store” means the WILD BIRDS UNLIMITED Store you develop and operate pursuant to this Agreement.

Section 1.03 System. “System” means the WILD BIRDS UNLIMITED System, which consists of distinctive birdfeeding and other nature related products offered in a setting of a distinctive exterior and interior facility, layout, signage and materials, all of which we may change from time to time, and using

service focused on providing the customer with advice, top quality products and a pleasant shopping experience.

Section 1.04 Marks. “Marks” means the WILD BIRDS UNLIMITED Trademark and Service Mark that have been registered in the United States, Canada and elsewhere and the trademarks, service marks and trade names set forth on Appendix B, as we may modify and change from time to time, and the trade dress and other commercial symbols used in the Store. Trade dress includes the designs, color schemes and image we authorize you to use in the operation of the Store from time to time.

ARTICLE 2. GRANT OF FRANCHISE

Section 2.01 Your Representations. The franchise granted is based on the application, financial statements and other documents you submit to us and you represent and warrant:

- (a) that all such documents are accurate and complete as of the dates of submission and as of the date of this Agreement; and
- (b) such submissions do not omit the statement of any material fact necessary to make them not misleading.

Section 2.02 Grant. Subject to the conditions of this Agreement, we grant to you the right to develop and operate a WILD BIRDS UNLIMITED store and to use the Marks as we now or in the future specifically designate for use in operating one WILD BIRDS UNLIMITED store located at the address described in the attached Appendix A. We will not own or operate a WILD BIRDS UNLIMITED store and will not franchise others to do so, at any physical location within the geographical area described in Appendix A (the “Designated Territory”). However, in determining where to locate your Store within the Designated Territory, you should be aware that designated territories will sometimes abut one another. Accordingly, franchised stores could be located in close proximity to one another if the stores are located near their common territory boundary. In those cases, customers residing in your Designated Territory may purchase merchandise, arrange for merchandise delivery to their home or business, and/or arrange for on-site consultation services at their home or business from you or from any other WILD BIRDS UNLIMITED franchisee or store, including stores located in designated territories assigned to other WILD BIRDS UNLIMITED franchisees. For this reason, you should investigate the location of stores within neighboring designated territories in making a site selection.

Section 2.03 Our Reservation of Rights. The license is limited to the right to develop and operate one Store, located in the Designated Territory. This license does not include (i) any right to sell products and services identified by the Trademarks at (1) any location other than any Store authorized under this Agreement; or (2) through any other unapproved channels or methods of distribution, including through a website owned and operated by any entity other than us or (ii) any right to exclude, control or impose conditions on our development of future franchised, company or affiliate owned stores at any time or at any location outside of the Designated Territory.

You acknowledge and agree that we and our affiliates have the right outside of the Designated Territory to grant other franchises or develop and operate company or affiliate owned WILD BIRDS UNLIMITED stores and offer, sell or distribute any products or services associated with the System (now or in the future) under the Marks or any other trademarks, service marks or trade names or through any distribution channel or method, all without compensation to any franchisee. We reserve the right to establish other channels of distribution, including mail order catalogs and the internet, within your Designated Territory for the products and services offered by you under the same trade name and trademarks.

Section 2.04 Your Obligations. You must diligently develop and operate the Store. You must maintain and operate the Store in the Designated Territory in accordance with our specifications and procedures and the terms of this Agreement. You may use the Store only for the purpose designated in this Agreement.

Section 2.05 Our Services. We will:

- (a) make available to you the benefit of our knowledge in the development and operation of the Store;
- (b) assist you with site selection and lease evaluation;
- (c) provide you with standard layouts and specifications for fixtures, furnishings, interior design and decor, signs and equipment required for the Store;
- (d) make available a representative to advise in the operations of the Store including sales techniques, Store management and operations and bookkeeping;
- (e) provide our regular and continuing supervisory services and periodic inspections and evaluations of your operations; and
- (f) provide to you a list of approved suppliers of birdfeeders, birdseed, nature-related products and other required items.
- (g) furnish to you, from time to time, such merchandising and operating aids and services and printed material.
- (h) from time to time, send representatives to your Store to consult with you or your managing partner or shareholder relative to the operation, and will inspect your premises (with or without prior notice) to, among other things, measure the efficiency and quality of the operation and general compliance with the Operating Handbook.
- (i) on your reasonable written request and as we determine, furnish services to you to assist in specific operational matters that you encounter that are beyond the scope of our obligations set forth in this Section 2.05. You must reimburse us promptly for our actual time expended and our actual expenses incurred in rendering such assistance to you.

ARTICLE 3. INITIAL TERM AND RENEWAL

Section 3.01 Initial Term. The term of this Agreement commences on the date the parties sign this Agreement (the “Effective Date”) and expires on the 10th anniversary of such date (the “Expiration Date”).

Section 3.02 Renewal Term and Conditions of Renewal. You may renew your license for unlimited, additional terms of 5 years, provided that you meet the following criteria:

- (a) You give us written notice of your intention to renew not less than 6 months and not more than 12 months, prior to the Expiration Date.
- (b) You are not, when notice is given, in default of any provision of this Agreement, any amendment or subsequent Agreement or amendment, or any other agreement between you

and us, and have substantially complied with the terms and conditions of all such agreements during the term (including beyond your renewal notice and up through the Expiration Date).

(c) You sign within 30 days of receipt our then-current form of Agreement. The terms of the then-current form of Agreement may differ substantially from the terms of this Agreement, including higher fees and other modifications to reflect that the agreement relates to the grant of a renewal.

(d) You perform such remodeling, repairs, replacements and redecoration as we may require to cause the Store, equipment, fixtures, furnishings and furniture to conform to the plans and specifications being used for new or remodeled WILD BIRDS UNLIMITED stores on the Expiration Date.

(e) You are able to maintain possession of the premises of the Store or in the alternative, that you are able to secure and develop substitute premises suitable to us.

(f) The inventory and services in connection with the operation of the Store meets our then-current specifications for a WILD BIRDS UNLIMITED store.

(g) Except to the extent limited or prohibited by applicable law, you sign a release, in form and substance satisfactory to us, of any and all claims against us arising under the expiring Agreement.

If you renew, the term of the Agreement will, unless sooner terminated, commence upon the Expiration Date of the then-current term which will then become the new Effective Date and end on the 5th anniversary of such date, which will become the new Expiration Date of the Agreement.

In the event that we determine that you do not have the right to renew the franchise, we will give written notice to you of our determination at least 120 days before the Expiration Date or we will extend the Expiration Date to 120 days after such notice.

ARTICLE 4. PREMISES AND EQUIPMENT

Section 4.01 Premises, Location and Lease. You own, lease or sublease the premises described in Appendix A, which we have reviewed and consented to as an acceptable Store site. If the premises are leased, you agree: (1) to furnish us with a copy of your lease for the premises prior to the execution of the lease; (2) to include in said lease a provision that permits you (or us, upon your failure), to fulfill the requirements of Section 12.02; and (3) that any lease that you sign will contain language whereby we may assume the obligations of the lease upon termination of this Agreement. If your lease for the premises of the Store terminates or expires without your fault prior to the expiration of the term of the Agreement, or if in our judgment and your judgment there is a change in the character of the location of the Store sufficiently detrimental to its business potential to warrant its relocation, we will grant permission for relocation of the Store to a location we approve. Any relocation under this circumstance will be at your sole expense. We may charge you a reasonable per diem expense to assist in site location, as well as reimbursement for our out-of-pocket costs.

Section 4.02 Construction of WILD BIRDS UNLIMITED Store. We will furnish site layout plans for the WILD BIRDS UNLIMITED Store together with advice and consultation concerning same but you must bear the cost of adapting such plans to your premises. The building and improvements must be constructed in compliance with the plans and specifications we provide. You must obtain all customary contractors' sworn statements and partial and final waiver, obtain all necessary permits, licenses and

architectural seals and comply with applicable legal requirements relating to the building, signs, equipment and premises, including, but not limited to, the Americans With Disabilities Act. You also must obtain and maintain all required zoning changes, building, utility, sign permits and licenses and any other required permits and licenses. It is your responsibility to comply with the foregoing condition. You must commence operation of the Store as soon as reasonably possible after completion of construction and installation of furnishings and equipment.

In the event the Store is damaged or rendered totally or partially untenable by fire or other casualty, you must repair or restore the premises to its former condition within a reasonable time, not to exceed 6 months after the date of the fire or casualty, unless you receive our prior written consent. We will not require you to repair or restore the premises if such damage occurs during the final year of the Agreement unless we agree to renew the Franchise pursuant to Section 3.02. If you are required under this Agreement to restore the premises, the proceeds of the insurance required by Section 10.02(a)(ii) must be applied to the cost of repairing or restoring the premises, and you must pay the balance, if any.

Section 4.03 Installation of Equipment and Furnishings. You may only install and use in and about the Store premises such equipment (including computer equipment, Point of Sale software, and other hardware and software items we may specify), fixtures, furnishings, interior and/or exterior signs and other personal property that we require and that conforms to our uniform standards and specifications as we may revise from time to time. Such equipment is sometimes referred to collectively as “Equipment and Furnishings.” You must install Equipment and Furnishings listed on the equipment and furnishings list in the Operating Handbook (as described below). We have the right to inspect all Equipment and Furnishings and their installation to assure your compliance with our standards and specifications.

Section 4.04 Maintenance of Premises, Equipment and Furnishings. You must maintain the condition and appearance of your Store consistent with the image of a WILD BIRDS UNLIMITED store as an attractive, clean and efficiently operated retail store, offering a variety of high quality birdfeeders, birdseed and other nature-related products, with efficient and courteous service. You must affect such refurbishing and maintenance of the Store, and such modifications and additions to its layout, decor and general theme, as is required from time to time to maintain such condition, appearance, efficient operation and overall image. This may include, without limitation, replacement of worn out or obsolete fixtures, equipment, furniture, signs, repair of the interior and exterior of the Store and appurtenant parking areas, and periodic cleaning and redecorating consistent with our requirements for other WILD BIRDS UNLIMITED stores. We will take into account the age of your Store, remaining lease term, remaining franchise term and other reasonable considerations when requiring any such changes. If at any time in our reasonable judgment, the general state of repair, appearance or cleanliness of the premises of your Store or its fixtures, equipment, furniture or signs do not meet our standards, we will so notify you, specifying the action you must take to correct such deficiency. If you fail or refuse, within 30 days after receipt of such notice, to initiate and thereafter continue in good faith and with due diligence, a bona fide program to undertake and complete any such required maintenance or refurbishing, we may affect such maintenance and refurbishing on your behalf. You must pay the entire cost to us on demand.

Section 4.05 Purchase of Equipment and Furnishings. A list of the Equipment and Furnishings which we have approved as being in accordance with our standards and specifications is contained in the Operating Handbook. You must purchase and install only such Equipment and Furnishings as are on our approved equipment and furnishings list or we otherwise approved in writing. The specifications and standards for such listed Equipment and Furnishings will be provided to you upon written request. If you desire to purchase or install any item not so listed or approved, you must submit to us a written request for approval of such item, or request the supplier of such item to do so. We have the right to require, among other things, that a sample of the item be delivered (or otherwise be made available in a manner acceptable to us) to us for testing prior to responding to the request for approval.

You must pay to us a charge not to exceed the cost of such testing by you or by the supplier of such item. We will not be liable for any damage to equipment or furnishings that may result from the testing process. We reserve the right to retest any items previously approved, and to revoke any prior approval if the item fails to continue to meet our standards and specifications. Upon our notification, through revision of the Operating Handbook or otherwise, that we have revoked the approval for use in the Store of any item, you may not thereafter purchase or, if we so direct, use such item.

ARTICLE 5. PRODUCTS AND SUPPLIERS

Section 5.01 Purchase of Products and Suppliers. You agree and acknowledge that the reputation and goodwill of WILD BIRDS UNLIMITED stores is based upon, and can be maintained only by, the sale of distinctive, high quality products and services. All products and services offered at your Store must meet our standards and specifications. Although you are not required to obtain our approval for suppliers of those products and services, you are encouraged to use our approved suppliers, as they have been identified as suppliers who meet our standards and specifications.

You agree:

(a) to sell only such birdseed, birdfeeders and other nature-related products as we may approve from time to time;

(b) to maintain in sufficient supply at all times and to sell and offer to sell only such approved products; and

(c) to discontinue selling or offering for sale any such items as we may disapprove in writing at any time.

Section 5.02 Product Testing. In the event you desire to offer any product we have not approved, you may offer such product provided that:

(a) the product does not materially deviate from our then-current standard specifications for products; and

(b) within a reasonable amount of time, you request approval of such products pursuant to the provisions of Section 5.03 below.

Section 5.03 Approved Products. You may (except as specifically stated) purchase all approved products to be sold through your Store from any sources, provided the quality conforms to our specifications and quality standards. All private label products must be purchased from suppliers we approve from time to time (which may include us and/or our affiliates). We may from time to time modify the list of approved products, and you shall not, after receipt of written notice of such modification, reorder any product that we have disapproved. If you propose to use any item or any product which is not then approved, you must, subject to the provision of Section 5.02 above, notify us and submit sufficient information, specifications and samples concerning such product for our determination whether such product complies with our specifications and standards. We will, within a reasonable time, notify you whether or not we approve the proposed product.

ARTICLE 6. OPERATING STANDARDS

Section 6.01 Operating Standards.

(a) During the term of this Agreement, we will make available to you via our Intranet system the Operating Handbook for WILD BIRDS UNLIMITED stores, which may consist of one or more manuals and other written materials containing specifications, standards and operating procedures (the "Operating Handbook"). We have the right to add to, and otherwise modify, the Operating Handbook from time to time to reflect changes in authorized products and services, standards of product quality and services or the operation of a WILD BIRDS UNLIMITED store. You must comply with each new or changed requirement. The Operating Handbook at all times is our sole property, and your right to access or use the Operating Handbook ceases immediately upon termination, expiration or cancellation of this Agreement. You must at all times treat the Operating Handbook, and the information it contains as secret and confidential, and must use all reasonable efforts to maintain the information as secret and confidential. We may choose to provide this modification to you on paper or by a digital method such as CD-Rom, internet or other currently unknown digital technology. Any required standards exist to protect our interests in the System and the Marks and not for the purpose of establishing any control or duty to take control over those matters that are reserved to you.

(b) If we loan you a hard copy of the Operating Handbook, you must keep your copy of the Handbook current. In the event of a dispute relative to the contents of the Operating Handbook (whether hard copy or otherwise), the master copy we maintain at our principal office controls.

(c) You must promptly pay when due all taxes levied or assessed including, without limitation, unemployment and sales taxes, on the franchise in the conduct of the business franchised under this Agreement. In the event of any bona fide dispute as to liability for taxes assessed, you may contest the validity or the amount of the tax in accordance with procedures of the taxing authority or applicable law; however, in no event may you permit a tax sale or seizure by levy of execution or similar writ or warrant or attachment by a creditor, to occur against the premises of your Store, or any improvements of your franchised business.

(d) You must comply with all federal, state and local laws, rules and regulations, and must timely obtain any and all permits, certificates or licenses necessary for the full and proper conduct of the business franchised under this Agreement, including, without limitation, building and other required construction and occupancy permits, licenses to do business and fictitious name registration, sales tax permits, health and sanitation permits and ratings, and fire code clearances.

(e) You acknowledge that you are an independent business and responsible for control and management of your Store, including, but not limited to, the hiring and discharging of your employees and setting and paying wages and benefits of your employees. You acknowledge that we have no power, responsibility or liability in respect to the hiring, discharging, setting and paying of wages or related matters.

Section 6.02 Operating Hours. During the term of this Agreement and absent our prior written consent, your Store must be open and in normal operation for at least 6 days per week, except where law may prohibit, and your Store must be open no less than 48 hours per week, except where such operation is impossible because of acts of God or similar circumstances beyond your control.

Section 6.03 Training. Prior to the opening of the Store, we will furnish, and you or the managing partner or your shareholder must attend, our new store training program, furnished at such place and time as we may designate. Existing franchisees opening additional stores must attend the training program if it has been more than 18 months since they attended the training program. We impose no training fee for additional franchises purchased by you. Training fees are set forth in Section 7.03 of this Agreement. Anyone participating in the training program who is not a franchisee or a guarantor of a franchise agreement must sign a confidentiality/non-competition agreement.

Section 6.04 Store Management. At all times during the term of this Agreement, the Store must be under the direct control and supervision of you, a managing partner (if you are a Partnership), managing shareholder (if you are a corporation) or designated manager, who has successfully completed our new store training program (the "Store Manager"). The Store Manager must personally participate in the operations of the Store on a full time basis and may not engage in any other business activity, directly or indirectly, that would require any management responsibility or time commitments that may conflict or otherwise interfere with the Store Manager's ability to properly and adequately supervise the Store operation or cause you to fail to fulfill any obligation under this Agreement. If you are a corporation or partnership, you may not engage in any business or activities, other than the ownership and operation of the Store and the development, ownership and operation of other WILD BIRDS UNLIMITED Stores pursuant to franchise agreements granted by us.

Section 6.05 Online Sales. Absent our prior written notice, you may not fulfill any orders for products or transact sales of any products by means of the internet, or any global, regional or other computer network ("online sales"). You may not conduct, participate in or assist others in the conduct of online sales without our prior written consent.

Section 6.06 Participation in Internet Websites or Other Online Communications. We reserve the right to require you to participate, at your expense, in our WILD BIRDS UNLIMITED website, any intranet or extranet system we may develop, or other online communications as we may require. We have the right to determine the content and use of our website and any intranet or extranet system we may develop and will establish the rules under which franchisees may or must participate. You may not (i) separately register any domain name containing any of the Marks, (ii) operate your own website selling bird seed and nature related products (whether or not they contain our Marks), or (iii) absent our prior approval, which we may grant or deny in our sole business judgment, participate in or use any current or future electronic mechanism that promotes, enhances or offers social networking access or opportunities (such as Facebook, Twitter, LinkedIn and MySpace) and that displays the Marks and/or relates to the Store. We retain all rights relating to our website and any intranet or extranet system we may develop and may alter or terminate our website, intranet or extranet system. Your general conduct on our website, intranet and extranet system or other online communications (including, without limitation, blogs, chat rooms, Facebook, Twitter, LinkedIn, MySpace and other current or future social media platforms) and specifically your use of the Marks or any advertising is subject to the provisions of this Agreement. You acknowledge that certain information related to your participation in our website, intranet or extranet system may be considered confidential information, including access codes and identification codes. Your right to participate in our website, intranet and extranet system, or otherwise use the Marks or System on the internet or other online communications, will terminate when this Agreement expires or terminates.

ARTICLE 7. FEES AND ADVERTISING EXPENDITURES

Section 7.01 Initial Franchise Fee. You must pay us a non-refundable Initial Franchisee Fee \$18,000. If you sign a Reservation Agreement, you must pay \$4,000 upon your signing of the Reservation Agreement and the remaining \$14,000 is due when you sign this Agreement. If you do not sign a Reservation Agreement, the entire \$18,000 is due upon your signing this Agreement. In the event that this Agreement is for an additional WILD BIRDS UNLIMITED store with an existing Franchisee, the Initial Franchise Fee is an amount equal to one-half of the Initial Franchise Fee then being offered by us to new franchisees. If you are an existing Franchisee and are granted an option to purchase an additional Wild Birds Unlimited store, you must pay us a reservation fee of \$2,000 for a 6 month option period. If you do purchase an additional store, that reservation fee will be applied toward your Initial Franchise Fee.

Section 7.02 Royalty. You must pay a Royalty equal to 4% of the Store's Gross Sales. The Royalty is paid monthly based on the immediately preceding month's Gross Sales, and must be received at our headquarters by close of business on the 10th day of the following month. A report of the Gross Sales of the franchised business for the preceding month, which must be delivered to us in the form and within the time frame set forth in the Operating Handbook or otherwise as we specify in writing, must be submitted to us for each payment.

Section 7.03 Training Fee. Except as noted below, you must pay a non-refundable training fee of \$2,500. We will waive the training fee in the event that you are an existing Franchisee acquiring the rights to operate an additional franchised store. However, you must pay for travel, lodging and food expenses related to the training in either case.

Section 7.04 Advertising Expenditures.

(a) You must make a monthly National Contribution equal to 0.5% of your Gross Sales, not to exceed \$2,500 per year (the "National Contribution") for advertising and marketing programs. We reserve the right to increase the percentage up to 2%, upon 60 days written notice to you. Payment must be made in the same manner and timeframe applicable to the Royalty, as noted in Section 7.02 above.

(b) In addition to the amount specified in 7.04(a) above, you must expend an amount not less than 2% of your Gross Sales for local advertising (the "Local Advertising Expenditure"). You must submit your report of advertising expenses to us on a quarterly basis, or as we otherwise may reasonably require.

(c) You may be required to participate in a local or regional advertising cooperative that we (at our option) would establish, and contribute to the cooperative up to a maximum of 2% of your annual Gross Sales (the "Regional Contribution"), upon 60 days written notice from us. The notice will designate the time, place, and amounts of the cooperative payments. All amounts contributed to the advertising cooperative will be credited toward the Local Advertising Expenditure required pursuant to Section 7.04(b). Payments to the advertising cooperative shall commence upon 60 days prior written notice from us.

Section 7.05 Annual Point of Sale Fee. You must pay to us an annual fee in exchange for our provision of technical support and customer developments related to the Point of Sale software (the "Annual Point of Sale Fee"). As of the Effective Date, the Annual Point of Sale Fee is \$240, although we have the sole right to increase the amount of the Annual Point of Sale Fee on 30 days' prior notice to you. You must remit the Annual Point of Sale Fee to us on or before May 31st of each year. The Annual Point

of Sale Fee is \$240 per store, per year, regardless of whether you have one or multiple Point of Sale register(s).

Section 7.06 Mystery Shopper Fee. During the first year you operate your Store you must pay the third party source we designate a mystery shopper fee of \$300 (the "Mystery Shopper Fee"). The Mystery Shopper Fee is due during your first year of operation.

Section 7.07 Computations and Remittances. Except for the Initial Franchise Fee, you must compute all amounts due and owing to us at the end of each month's operation and remittance for the amounts must be made received by us at our headquarters, by close of business, on the 10th day of the following month. You must certify the computation of the amounts in the manner and form we specify and submit the reports required by Section 9.02 of this Agreement to us at our headquarters, by close of business, on or before the 5th day of the following month, and you must supply to us any supporting or supplementary materials as we reasonably require to verify the accuracy of remittances. You waive any and all existing and future claims and offsets against any amounts due under this Agreement, which amounts you must pay when due. We have the right to apply or cause to be applied against amounts due to us or any of our affiliates any amounts that we or our affiliates may hold from time to time on your behalf or that we or our affiliates owe to you.

Section 7.08 Late Payment Charges. All royalty fees, advertising contributions, amounts due for purchases from us or our affiliates and other amounts that you owe to us or our affiliates, which are not received by the due date, will be assessed a late fee of \$35 plus interest at an annual interest rate of 2% in excess of the Prime Rate (as published from time to time by the *Wall Street Journal*). Notwithstanding the foregoing, such interest rate will not exceed the highest applicable legal rate for open business credit in the state in which your Store is located. You acknowledge that this Section 7.08 does not constitute our Agreement to accept such payments after same are due, our commitment to extend credit to or otherwise finance your operation of your Store or a waiver of any right we may have to terminate the Agreement as provided in Article 12 below.

Section 7.09 Credit Cards, Retail Financing Plans and Other Methods of Payment. You shall at all times have arrangements in existence with Visa, Master Card, American Express and such other credit card issuers or sponsors, check verification services systems as we designate from time to time, in order that the Store may accept customers' credit cards and checks.

Section 7.10 Electronic Transfer of Funds. We may require you to sign an electronic transfer of funds authorization, to authorize and direct your bank or financial institution to transfer electronically, on a monthly basis, directly to our account or our affiliates' and to charge to your account all amounts due to us or our affiliates. If we exercise our right to institute electronic transfer of funds, you must maintain a balance in your account sufficient to allow us and our affiliates to collect the amounts owed when due. You must pay for any penalties, fines or other similar expenses associated with the transfer of funds described in this subparagraph.

ARTICLE 8. ADVERTISING

Section 8.01 Origination and Approval of Advertising.

(a) You are required by Section 7.04(b) to conduct, at your expense, advertising to promote and increase the demand for birdseed, birdfeeders and other nature-related products of your Store. All such advertising shall either have been prepared, or previously approved by us, in writing. You may not market yourself or your products by means of catalogs or the internet, except as we approve in writing.

(b) Recognizing the value of advertising, and the importance of the standardization of advertising to the furtherance of the goodwill and public image of the WILD BIRDS UNLIMITED franchise system, you agree that we or our designee will conduct, determine, maintain and administer all national and regional advertising and marketing as may be instituted from time to time, and will direct all such advertising and marketing using the concepts, materials, media, nature, type, scope, frequency, place, form, copy, layout and context as we specify. You understand and acknowledge that the Advertising Contributions which may be required to be paid pursuant to Section 7.04(a) are intended to maximize general public recognition and acceptance of all WILD BIRDS UNLIMITED stores, and we and our designee(s) make no representation or warranty that any particular store, including your Store, will benefit directly or pro-rata from such advertising.

(c) You acknowledge and agree that we may specify standards, guidelines, requirements, and restrictions concerning your participation in marketing and customer goodwill programs such as the Shopatron Internet Store, Seed Storage Program, the Daily Savings Club[®] Customer Loyalty Program, and other similar marketing and customer goodwill programs. We may limit or suspend your participation in such programs if you are in default of any provision of this Agreement.

Section 8.02 Use of Advertising Funds. We have the right to delegate and redelegate our responsibilities and duties with respect to advertising to any designee(s) of our choosing, provided that we retain the right of final approval of all advertising programs. The books and business records of accounts for the advertising programs will be open for you to inspect upon reasonable notice. We own and manage the advertising fund. The advertising fund is not a trust or escrow account, and we have no fiduciary obligation to franchisees with respect to the advertising fund. We have the right to determine the expenditures of the amounts collected and the methods of marketing, advertising, media employed and contents, terms and conditions of marketing and advertising campaigns and promotional programs. The advertising fund will be accounted for separately from our other funds and will not be used to defray any of our general operating expenses, except for such reasonable salaries, administrative costs and overhead as we may incur in activities reasonably related to the administration or direction of such fund and its advertising and promotional programs.

Section 8.03 Reach of Advertising into Other Territories. You acknowledge and agree that the media in which any Store advertises may be distributed or otherwise enter into the designated territory of another franchisee. You acknowledge and agree that we have no control over the distribution and reach of such media and that we cannot prohibit another franchisee from placing advertising in any media that might reach outside of its designated territory and into your Designated Territory.

ARTICLE 9. BOOKS, RECORDS, CONTROL PROCEDURES

Section 9.01 Bookkeeping System. We may furnish to you cost control procedures to which you must adhere. We also may furnish a sample format of a chart of accounts, statement of earnings and balance sheet, and you must adhere to the form in reporting to us.

Section 9.02 Reports. You must submit to us, for review or auditing, such forms, reports, records and financial statements as we may reasonably designate, in the form and at the times and places we reasonably required, upon our request from time to time.

Section 9.03 Marketing Information. We have the right from time to time to require and you have the obligation to furnish requested marketing information based on your records, including the Monthly Advertising Report which must be submitted to us on or before the 10th day of each month and

must track your advertising activities for your Store during the preceding calendar month. We will use this information in making surveys and analyses designed to benefit and improve the System and your and other franchisees business and operating results.

Section 9.04 Your Records. You must maintain, during the term of this Agreement, complete and accurate books, records and accounts, in accordance with generally accepted accounting principles. We will prescribe, from time to time, the type of information and period of time to be covered, as well as the form and manner in which it is to be kept.

Section 9.05 Inspection of Your Records.

(a) We have the right to examine and audit your records, accounts and books at reasonable times and places (including, without limitation, your Store or your principal place of business). You must pay our audit fees, charges and expenses (including, without limitation, travel expenses and reasonable accounting and legal fees) with respect to any periodic or annual audit that reveals an understatement of Gross Sales in excess of 2%.

(b) If required payments or reports are delinquent, or if an inspection reveals that you have understated your Gross Sales reported to us, you must immediately pay to us the amount overdue, unreported or understated, in addition to the late fee and interest from the date due at the rate set forth in Section 7.07. The foregoing will be in addition to any other rights we may have.

ARTICLE 10. INSURANCE – INDEMNITY

Section 10.01 Indemnity. You must indemnify and hold us and our subsidiaries, affiliates, stockholders, directors, officers, employees, agents and assignees harmless against, and to reimburse them for, any loss, liability, taxes or damages (actual or consequential) and all reasonable costs and expenses of defending any claim brought against any of them or any action in which any of them is named as a party (including, without limitation, reasonable accountants', attorneys' and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses) which any of them may suffer, sustain or incur by reason of, arising from or in connection with your ownership or operation of the Store. This indemnity shall not apply if such loss, liability or damage is due solely to our negligence (or the negligence of any of our affiliates) without any contributing negligence on your part. The indemnity obligation set forth in this Section 10.01 shall survive the expiration or termination of this Agreement.

Section 10.02 Your Insurance.

(a) You must, at all times during the term of this Agreement, maintain at your sole expense the following insurance coverage:

(i) Comprehensive Public Liability insurance, Broad Form Contractual Liability insurance, and Product Liability insurance (and motor vehicle liability insurance, if a motor vehicle is employed in the operation of the Store) against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with the operation of the Store or otherwise in conjunction with the conduct of your business pursuant to this Agreement. The coverage to be maintained must aggregate \$2,000,000. The coverage must be carried under one or more policies of insurance containing minimum liability protection of \$1,000,000 per person per occurrence for bodily and personal injury and death and \$1,000,000 per occurrence for

property damage (or such greater amounts or such additional coverage as may be required by the lease for the premises of your Store).

(ii) You must carry property insurance keeping the premises of your Store and its contents insured against loss or damage by fire and such other risks covered in the Standard Extended Coverage Endorsement, in an amount not less than 100% of the full replacement cost of such assets.

(iii) You must maintain insurance Coverage against loss of income as a result of an insured peril.

(b) You acknowledge that we may increase the minimum coverage and policy limits required by this section for our own and your protection and you must comply with such new requirements promptly upon receipt of our written notice to you.

(c) The insurance policy or policies required by this section must be written by an insurance company acceptable to us, must name us as an additional insured and must contain a waiver of the insurance company's right of subrogation against us.

(d) Worker's Compensation, Unemployment Compensation, Disability Insurance, Social Security and other insurance coverage must be maintained in such amounts as are now or in the future required by any applicable law.

(e) Your obligation to obtain and maintain the foregoing policy or policies in the amounts specified will not be limited by reason of any insurance that we may maintain, nor will your performance of such obligation relieve you of liability under the indemnity provisions set forth in Section 10.01 of this Agreement.

Section 10.03 Evidence of Insurance. You must deliver or cause to be delivered certificates (or copies) of all insurance required by this Article 10 to us. You also must deliver to us evidence of payment of all insurance premiums.

Section 10.04 Notice. All insurance policies must provide for notice to us of any cancellation, termination or non-renewal 30 days prior to termination or non-renewal of coverage and for our right to cure any default in payment of premiums within 10 days after written notice. We do not have any duty to cure such default, provided, however, if we do cure such default, we have the right to charge you the cost of curing such default, together with a reasonable fee for our expenses, which charges you must pay immediately upon notice.

ARTICLE 11. OWNERSHIP AND LIMITATION OF USE OF MARKS, TRADE SECRETS

Section 11.01 Ownership of Proprietary Marks, Patents and Trade Secrets. You acknowledge that we are the owner of the Marks, patents, trade secrets, instruction manuals, Operating Handbook (collectively, our "intellectual property") and all associated goodwill. Your right to use the intellectual property and all other portions of the System is derived solely from this Agreement and is limited to the conduct of your business pursuant to and in compliance with this Agreement and all our applicable standards, specifications and operating procedures during the term of the Franchise. Your unauthorized use of the intellectual property will constitute an infringement of our rights in and to the intellectual property. You agree that your use of the Marks and any goodwill established inures to our exclusive benefit, and you acknowledge that this Agreement does not confer upon you any goodwill or other interest in our intellectual property. You may not, during or after the term of this Agreement, engage in

any conduct directly or indirectly that would infringe upon, harm or contest our rights in any of the Marks or the goodwill associated with the Marks, including any use of the Marks in a derogatory, negative, or other inappropriate manner in any media, including but not limited to print or electronic media.

Section 11.02 Mark Use. You may not use, or permit the use of, any trademarks, trade names or service marks in connection with the Store except those set forth in Appendix B or except as we otherwise direct in writing. You may use the Marks only in connection with such products and services as we specify and only in the form and manner we prescribe in writing. You must comply with all trademark, trade name and service mark notice marking requirements. You may use the Marks only in association with products and services approved by us and that meet our standards or requirements with respect to quality.

Section 11.03 Store Identification. You must use the name WILD BIRDS UNLIMITED as the trade name of the Store and you may not use any other mark or words to identify the Store without our prior written consent. You may not use the words WILD BIRDS UNLIMITED or any of the other Marks as part of the name of your corporation, partnership, limited liability company or other similar entity. You may use the Marks on various materials, such as business cards, stationery and checks, provided you (i) accurately depict the Marks on the materials, (ii) include a statement on the materials indicating that the business is independently owned and operated by you, (iii) do not use the Marks in connection with any other trademarks, trade names or service marks unless we specifically approve in writing prior to such use, and (iv) make available to us, upon our request, a copy of any materials depicting the Marks. You must post a prominent sign in the Store identifying you as a WILD BIRDS UNLIMITED franchisee in a format we deem reasonably acceptable, including an acknowledgment that you independently own and operate the Store and that the WILD BIRDS UNLIMITED Mark is owned by us and your use is under a license we have issued to you.

Section 11.04 Notification of Infringements and Claims. You must notify us immediately of any apparent infringement of or challenge to your use of any Mark, patent or our copyrighted materials, or claim by any person of any rights in any intellectual property. We have the right to take such action as we deem appropriate and the right to exclusively control any litigation, U.S. Patent and Trademark Office proceeding or other administrative proceeding arising out of any such infringement, challenge or claim or otherwise relating to any intellectual property. You must sign any and all instruments and documents, and things as may be necessary or advisable to protect and maintain our interests in any such litigation, U.S. Patent and Trademark Office proceeding or other administrative proceeding or to otherwise protect and maintain our interests in our intellectual property.

Section 11.05 Indemnification of Franchisee/Discontinuance of Use of Marks. We will indemnify you against, and to reimburse you for, all damages for which you are held liable in any proceeding arising out of your use of any Mark pursuant to and in compliance with this Agreement and for all costs you reasonably incur in the defense of any such claim brought against you in any such proceeding in which you are named as a party, provided that you have timely notified us of such claim or proceeding and have otherwise complied with this Agreement. If, however, the challenge or claim results from your misuse of the Marks in violation of this Agreement, you must reimburse us for our fees and expenses we incur in any proceeding.

Section 11.06 Changes. You may not make any changes or substitutions to the Marks unless we direct in writing. We reserve the right to change the Marks at any time. Upon receipt of our notice to change the Marks, you must cease using the former Marks and commence using the changed Marks at your expense.

Section 11.07 Non-Disclosure of Trade Secrets and Confidential Information.

(a) We possess certain proprietary know-how, methods, techniques, drawings, specifications, procedures, information, systems and knowledge and experience in the operation

of a WILD BIRDS UNLIMITED store and the purchase, preparation and sale of authorized and approved products (the "Know-How"). We will disclose the Know-How to you in furnishing you with layouts, specifications and guidance in the development and operation of the Store, the training program, the Operating Handbook and in guidance furnished to you during the term of this Agreement. The Know-How may be in electronic form (such as on a CD-Rom or accessible online).

(b) You acknowledge and agree that you will not acquire any interest in the Know-How, other than the right to utilize it in the development and operation of the Store during the term of this Agreement and that the use or duplication of the Know-How in any other business would constitute an unfair method of competition. You acknowledge and agree that the Know-How is proprietary and, except to the extent known in the relevant industry or trade, is a trade secret of ours and is disclosed to you solely for your use in the development and operation of the Store during the term of this Agreement and on the condition that you agree that you:

- (i) will not use the Know-How in any other business or capacity;
- (ii) will maintain the confidentiality of the Know-How during and after the term of the Franchise;
- (iii) will not make unauthorized copies of any portion of the Know-How disclosed in written or electronic form; and
- (iv) will adopt and implement all reasonable procedures we prescribe from time to time to prevent unauthorized use or disclosure of the Know-How, including without limitation, restrictions on disclosure to employees of the Store.

Section 11.08 Covenant Not to Compete. You acknowledge and agree that we would be unable to protect our trade secrets against unauthorized use or disclosure if you were permitted to hold interests in businesses similar to WILD BIRDS UNLIMITED stores. Therefore, during the term of the Franchise, neither you, any shareholder or partner (in the event you are a corporation or partnership), nor any member of your or their immediate families may have any interest as an owner, investor, partner, director, officer, employee, consultant, representative or agent, or in any other capacity, in any business offering birdfeeders and/or birdfeed, or any other nature oriented store offering products for birds or birdfeeding except for other WILD BIRDS UNLIMITED stores operated under franchise agreements we grant or the ownership of securities listed on a stock exchange or traded on the over-the-counter market that represent 1% or less of that class of stock. You must obtain a signed Confidentiality and Non-Competition Agreement in the form attached as Appendix C, as we may revise from time to time, from every general partner if you are a partnership, from every stockholder if you are a corporation, from every member if you are a limited liability company, and from all store managers, and must forward same to us prior to the commencement of training and prior to the acquisition of any such interest by a third party or employment of a Store Manager at any time during the term of this Agreement and any renewal. Upon expiration or termination of this Agreement, the terms of Article 13 apply to you.

Section 11.09 Survival. The covenants set forth in this Article 11 shall survive the termination or expiration of this Agreement.

ARTICLE 12. TERMINATION

Section 12.01 Events of Default.

(a) You acknowledge and agree that each of following events constitutes a material default of the obligations imposed by this Agreement and that such a material default provides us with good cause to issue a written notice of immediate termination of this Agreement, without providing you with any opportunity to cure:

(i) your conviction of a felony (or pleading no contest to), a crime involving moral turpitude, or any other crime or offense that is reasonably likely, in our sole opinion, to adversely affect the WILD BIRDS UNLIMITED franchise system, or that brings or tends to bring any of the Marks into disrepute or impairs or tends to impair your reputation or the goodwill of any of the Marks or your Store;

(ii) your failure to satisfactorily complete the initial training program, and if necessary the next training program;

(iii) your failure to actively operate the Store as required under this Agreement, or your conduct in abandoning the Store, which is defined as the failure to continuously operate the Store for a period of 5 or more days without our prior written approval;

(iv) your making of an unauthorized assignment or transfer of this Agreement, your Store or an ownership interest in you;

(v) your using the Confidential Information or Operating Handbook other than in the operation of the Franchise or disclosing the Confidential Information or Operating Handbook to another party;

(vi) your becoming insolvent, filing or having filed against you a petition in bankruptcy, reorganization, or similar proceeding under the bankruptcy laws of the United States; a permanent or temporary receiver of the business, assets or property of you or any partners or shareholders is appointed by any court of competent authority; you or any partners or shareholders request the appointment of a receiver or make a general assignment for the benefit of creditors; a final judgment against you or any partners or shareholders in the amount of \$10,000 or more remains unsatisfied of record for 30 days or longer; the bank accounts, property or receivables of you or any partners or shareholders are attached and such attachment proceedings are not dismissed within a 30 day period; or if execution is levied against the business or property of you or any partner or shareholder, and is not dismissed within 30 days;

(vii) your failing or refusing on 2 or more separate occasions within any 12 consecutive month period to submit when due any of the following: financial statements; reasonable reports or other data upon our written request; reasonable information or supporting records upon our written request; payments; advertising contributions; amounts due for products and services purchased from us, our affiliates or other suppliers; or any other payment due to us;

(viii) your submitting to us, at any time during the term of this Agreement, a report, financial statement, tax return or schedule or other information or supporting

record which intentionally understates Gross Sales for the period covered by such report by more than 2%;

(ix) your failing or refusing to comply with this Agreement on 4 separate occasions within any consecutive 12 month period, whether or not such failures or refusals are corrected after notice is delivered to you; or

(x) your submitting any information to us which is materially misleading or omitting to provide any material information or other information necessary to make any other information submitted not misleading in connection with the qualifying to become a franchisee.

(b) You acknowledge and agree that each of the following events constitutes a material default of this Agreement and, unless cured within 30 days of notice to you, provides us with good cause to issue a written notice of termination of the Agreement:

(i) your failure to substantially comply with any of the requirements imposed by the Agreement, or to carry out the terms of this Agreement in good faith;

(ii) your failure or refusal to promptly pay any amounts owed to us or our subsidiaries or affiliates when due, or to submit the financial information we require, or your making any false statements in connection with payments owed or other financial information;

(iii) your failure to maintain the standards that we require as set forth in the Operating Handbook or otherwise as we direct in writing;

(iv) your failure or refusal to obtain our prior written approval or consent as required by this Agreement;

(v) your misuse or making of any unauthorized use of the Marks or otherwise materially impairing the goodwill of the Marks or your Store; and

(vi) your soliciting or hiring an employee of ours; or

(vii) your failure to comply with any other provision of this Agreement or any mandatory specification or standard operating procedure we prescribe.

(c) If you are in substantial compliance with this Agreement and we materially breach this Agreement and fail to cure such breach within 30 days after you deliver notice to us, you may, at your option, terminate this Agreement. Your termination of this Agreement for any reason other than our material breach and our failure to cure such breach within 30 days after receipt of written notice will constitute your termination without cause.

Section 12.02 Effect of any Termination, Cancellation or Expiration of this Agreement.

(a) Upon any termination, cancellation or expiration of this Agreement, you must provide us with a complete accounting of all amounts owed us and our affiliates and, within 15 days of the effective date of termination or expiration of the Agreement, pay to us, our affiliates and subsidiaries any and all sums owed to them. In the event of termination for any default by you, such sums include all damages, costs and expenses, including reasonable attorneys' fees we

incur as a result of the default, which obligation gives rise to and remains, until paid in full, a lien in favor of us against any and all of the assets of the franchised business you own at the time of default.

(b) All of your rights terminate upon termination, cancellation or expiration of this Agreement for any reason. You may not thereafter use or adopt any trade secrets disclosed to you or any emblems, signs, displays or other property on which our name or Marks or anything confusingly similar are imprinted. You must remove from the premises all signs, emblems and displays identifying it as associated with us or the WILD BIRDS UNLIMITED franchise system. You must take such actions as may be required to cancel all fictitious or assumed name or equivalent registrations relating to use of any of the Marks. You must cease to use and must return to us all copies of the Operating Handbook and all other manuals, instructions or materials (whether in written or electronic form such as CD-Rom) and must relinquish your WILD BIRDS UNLIMITED Store telephone number and notify the telephone service provider and all listing agencies of the termination or expiration of your right to use any telephone number or any telephone directory listings with the Marks and to authorize transfer of the same to or at our direction.

(c) Upon termination, cancellation or expiration of this Agreement, unless we otherwise direct in writing, you must make changes in signs, buildings and structures as we reasonably direct, so as to effectively distinguish the same from its former appearance and from any other WILD BIRDS UNLIMITED Store, and if you fail or refuse to comply, then we have the right to enter upon the premises of your Store for the purpose of making or causing to be made such changes at your expense, which expense you must pay on demand. No business may be conducted in the former WILD BIRDS UNLIMITED Store building until such modifications have been completed.

(d) Upon termination, cancellation, or expiration of this Agreement, you must cease to hold yourself out in any way as a WILD BIRDS UNLIMITED franchisee or do anything that would indicate any relationship between you and us.

(e) The covenants set forth in subsections (a), (b), (c) and (d) of this Section 12.02 and Article 13 will survive the termination, cancellation or expiration of this Agreement.

(f) All rights, claims and indebtedness that may accrue to us prior to termination, cancellation or expiration of this Agreement will survive termination, cancellation or expiration and be enforceable by us.

(g) Within 30 days after the effective date of termination or expiration of this Agreement, you must furnish evidence satisfactory to us of your compliance with the obligations of this Section 12.02.

Section 12.03 Our Option to Purchase.

(a) Upon termination (except in conjunction with assignment of the Franchise), cancellation or expiration of this Agreement, we have the right and option to purchase all or a portion of the assets, including, but not limited to, all inventory, supplies, signs and any and all insignia bearing our trade name or marks, of your Store at the lesser of cost or their fair market value at the date of expiration or termination of the Agreement. Unless otherwise agreed to by you, the underlying real estate of Store (or lease of the Store premises) will not be included. If the parties cannot agree on the fair market value within a reasonable time, such dispute shall be

determined by three (3) appraisers – one chosen by you, one chosen by us, and the third selected by the appraisers designated by the parties. Each party will bear the cost of its designated appraiser and the parties will share equally the costs of the third appraiser. The majority decision of the appraisers will govern. This option is exercisable only in the event you are unable to sell said assets to a purchaser we approve within 60 days after termination. If we elect to exercise any option to purchase as provided, we have the right to set off all amounts due from you under this Agreement and cost of the appraisal, if any, against any payment therefor.

(b) If we request, you must furnish us with an affidavit and other instruments required by applicable sales laws or other statutes.

(c) We may exercise the option set forth in this Section 12.03 by giving you written notice within 30 days of termination or expiration.

(d) In addition to the other remedies granted, we shall be entitled to specific performance of the options granted in this Agreement.

ARTICLE 13. COVENANT NOT TO COMPETE AFTER EXPIRATION OR TERMINATION

Upon the expiration of this Agreement or our termination of this Agreement in accordance with the provisions of this Agreement or by you without cause, you agree that for a period of 2 years, commencing on the effective date of termination, or the date on which you cease to conduct the business conducted pursuant to this Agreement, whichever is later, you (and each shareholder or partner, if you are a corporation or partnership) will not have any direct or indirect interest as an owner, investor, partner, director, officer, employee, consultant, representative or agent, or in any other capacity, in any business offering birdfeeders and/or birdseed or any other nature oriented store offering products for birds or birdfeeding (i) at your Store location; (ii) located or operating within your Designated Territory or (iii) within a radius of 10 miles of any other Store in operation on the effective date of expiration or termination, except for other Stores you operate under franchise agreements we grant to you. You agree that the length of time in this Article will be tolled for any period during which you are in breach of the covenants or any other period during which we seek to enforce this Agreement. This provision does not apply to the ownership of securities listed on a stock exchange or traded on the over-the-counter market that represent 1% or less of that class of stock. Further, the parties acknowledge and agree that, if any part of this Article 13 is deemed inconsistent with applicable law, this Article 13 automatically will be modified and construed in a manner that conforms to applicable law.

ARTICLE 14. ASSIGNMENTS

Section 14.01 Assignment by Us. We may assign our interests under this Agreement.

Section 14.02 Assignment by Franchisee.

(a) You understand and acknowledge that the rights and duties created by this Agreement are personal to you and that we have granted this Franchise to you in reliance upon your individual or collective character, skill, aptitude, attitude, business ability and financial capacity; provided, however, that nothing in this Agreement may be construed in any manner as preventing a spouse or heir of yours from becoming your successor so long as the criteria of this Article 14 of this Agreement are satisfied. Therefore, except as described with respect to an assignment to a corporation, neither the Franchise nor the Store (or any interest) nor any part or all of your ownership may be voluntarily, involuntarily, directly or indirectly, assigned, sold, subdivided, subfranchised or otherwise transferred by you or your owners (including without

limitation, by merger or consolidation, by issuance of additional securities representing an ownership interest in you, by conversion of a general partnership to a limited partnership, by transfer or creation of an interest as a general partner of a partnership, by transfer of an interest in you or in this Agreement in a divorce proceeding, or in the event of your death or death of an owner, by will, declaration of or transfer in trust or the laws of intestate succession) without our prior written approval, which consent will not be unreasonably withheld, and the payment to us of an assignment fee equal to 10% of the then current Initial Franchise Fee, and any such assignment or transfer without such approval constitutes a breach of this Agreement and conveys no rights to or interests in the Franchise or the Store.

(b) You acknowledge and agree that the restrictions on transfer imposed are reasonable and necessary to protect the Marks, trade secrets, operating procedures, and quality, as well as our reputation and image, and are for the protection of us, you, and other franchisees of us. Any assignment or transfer permitted by this Section will not take effect until we issue our written consent, following our receipt and review of a completely signed copy of all transfer documents.

(c) We will not unreasonably withhold our consent to any assignment subject to the restrictions of this Section following our receipt and review of completely signed copies of all relevant documents. We have the right to condition our consent on the satisfaction of the following requirements:

(i) All your and your owners' obligations incurred in connection with the Agreement have been assumed by the assignee;

(ii) You or your affiliate have paid such Royalty Fees, Advertising Contributions, amounts owed for your purchases from us or our affiliates, and any other amounts owed to us or our affiliates under this or any other agreement, which are then due and unpaid;

(iii) The assignee agrees to complete the training program required of new franchisees and pays our then-current training fee;

(iv) If required, the lessor of the premises of the Store has consented to your assignment or sublease of the premises to the proposed assignee;

(v) The assignee (and, if a corporation or partnership, its owners), at our option, have signed and agreed to be bound by:

(1) an assignment and assumption agreement satisfactory to us, whereby the assignee assumes your obligations under this Agreement; or

(2) the form of franchise agreement and such ancillary agreements as we then customarily use in the grant of franchises for stores, which will provide for the same Royalty Fees and Advertising Contributions required under this Agreement and a term equal to the remaining term of the Franchise;

(vi) You or your assignee have paid our then-current standard assignment fee to us to defray expenses we incur in connection with the assignment, including, without limitation, legal and accounting fees, credit and other investigation charges and evaluation of the assignee and the terms of the assignment;

(vii) Except to the extent limited or prohibited by applicable law, you (and each of your owners, if you are a corporation or partnership) have signed a general release, in form and substance satisfactory to us, of any and all claims against us and our affiliates, officers, directors, employees and agents;

(viii) We have approved the material terms and conditions of such assignment;

(ix) You (and each shareholder or partner, if you are a corporation or partnership) have signed a non-competition covenant in favor of us and the assignee, with the content as described in Article 13;

(x) You have entered into an agreement with us agreeing to subordinate such assignee's obligations to us, including, without limitation, any Royalty Fees and Advertising Contributions, any obligations of such assignee to make installment payments of the purchase price to you;

(xi) The assignee meets our then-current standards for new franchises generally, including with respect to the assignee's character, business experience, aptitude, and financial resources;

(xii) You are in full compliance with all terms and conditions of the Agreement; and

(xiii) The terms of the assignment do not place an undue financial burden on the assignee.

(d) Upon 30 days' prior written notice to us, you and the assets and liabilities of the Store may be assigned, by an agreement in form and substance we approve, to a corporation that conducts no business other than the Store (or other Stores under franchise agreements granted by us), which you actively manage and in which you own and control all of the equity and voting power of all issued and outstanding capital stock. Such an assignment does not relieve you of any obligations under the Agreement, and you will remain jointly and severally liable. The articles of incorporation, by-laws and other organizational documents of any corporation which is yours must recite that the issuance and assignment of any interest of the corporation or entity is restricted by the terms of this Agreement and all issued and outstanding stock certificates of such corporation must bear a legend reflecting or referring to the restrictions of Section 14.02(e)(5).

Any person who is or becomes a shareholder of yours or has or acquires beneficial ownership of any shares of stock of yours must sign an agreement in a form we furnish or approve undertaking to be bound jointly and severally by all provisions of this Agreement. You must furnish to us at any time upon request a certified copy of the articles of incorporation and a list, in such form as we may require, of all shareholders of record and all persons having beneficial ownership of shares of stock, reflecting their respective interests in you.

(e) In the event you, including any successors, are a partnership, corporation or limited liability company:

(i) The Articles of Partnership, Partnership Agreement, Articles of Incorporation, the By-laws and other organizational documents must recite that the issuance and transfer of any interest in the Franchise is restricted by the terms of the

Agreement, and copies must be furnished to us upon request (together with copies of the Resolutions of the Board of Directors authorizing its entry into this Agreement).

(ii) All general partners and all direct and indirect holders of a beneficial interest in your corporation must sign a written agreement with us, personally guaranteeing the full payment and performance of your obligations to us and individually undertaking to be bound, jointly and severally, by all terms of this Agreement, including, without limitation, the restrictions on assignment in this Section.

(iii) You may not use the name WILD BIRDS UNLIMITED, any other Mark, or any name deceptively similar, in a public offering of your securities, except to reflect your franchise relationship with us. Any prospectus or registration statement proposed to be used in such a public offering must be submitted to us within a reasonable time prior to the filing and effective date for the limited purpose of permitting us to verify your compliance with this requirement.

(iv) You must furnish us, at the time of execution of this Agreement and upon all transfers subject to the provisions of this Section thereafter, a list of all stockholders and/or partners having an interest in the franchise which reflects the percentage interest of each stockholder or partner, and the number of shares directly and indirectly owned or controlled by each stockholder.

(v) You, if you are a corporation, must maintain stop transfer instructions against the transfer on your records of any securities with voting rights, and must have the following legend printed conspicuously upon the face of each certificate for outstanding voting securities:

“The transfer of this stock is subject to the terms and conditions of certain Agreement(s) with Wild Birds Unlimited, Inc. Reference is made to said Agreement(s) and to the restrictive provisions of the Articles and By-Laws of this corporation.”

(f) Our consent to a transfer of any interest subject to the restrictions of this Article does not constitute a waiver of any claims we may have against the assignor, nor may it be deemed a waiver of our right to demand exact compliance with any of the terms of this Agreement by the assignee.

Section 14.03 Death and Disability. In the event of the death or disability of an individual Franchisee or the shareholder or partner of yours, we will consent to the transfer of the decedent’s interest in the franchise to his or her surviving spouse, heirs or estate (“Your Heirs”) whether such transfer is made by will or by operation of law, for a reasonable time after the occurrence of the death or disability without payment of our then-current standard assignment fee, provided that Your Heirs maintain all standards of Stores and agree to be bound by all the terms and provisions of this Agreement.

In the event Your Heirs are unable to maintain such standards or do not agree to be bound by the terms and provisions of this Agreement, they must within 12 months from the date of death or permanent disability transfer the interest in the franchise to a person we approve. Such transfer is subject to all terms and conditions for assignments and transfers set forth in this Article 14. Failure to transfer or assign such interest in accordance with the provisions of this Section constitute grounds for termination under Section 12.01(a).

Section 14.04 Our Right of First Refusal. Except in the event of a partial ownership change or partial transfer of the Store, if you or your owner at any time determine to sell the Franchise to any third party, you or your owner must obtain a bona fide, signed written offer from a responsible and fully disclosed purchaser and must submit an exact copy of such offer to us. We have the option, exercisable by written notice delivered to you or your owner within 30 days from the date of delivery of an exact copy of such offer to us, to purchase such interest in the Store or such ownership interest in you for the price and on the terms and conditions contained in such offer, provided that we may substitute cash for any form of payment proposed in such offer and we have not less than 30 days from the date of delivery of our notice to exercise our option, to prepare for closing. Any change in the terms of an offer prior to closing constitutes a new offer, subject to our same right of first refusal as in the case of an initial offer. Our failure to exercise the option afforded by this Section 14.04 does not constitute a waiver of any other provision of this Agreement, including any of the requirements of this Section with respect to the proposed transfer, or of our right of first refusal with respect to any subsequent offer.

ARTICLE 15. DISPUTE RESOLUTION

Section 15.01 Arbitration. Except as qualified below, any dispute between you and us or any of our or your affiliates arising under, out of, in connection with or in relation to this Agreement, any lease for the Store, the parties' relationship, or the business must be submitted to binding arbitration under the authority of the Federal Arbitration Act and must be arbitrated in accordance with the then-current rules and procedures and under the auspices of the American Arbitration Association. The arbitration must take place in Indianapolis, Indiana, or at such other place as may be mutually agreeable to the parties. Any arbitration must be resolved on an individual basis and not joined as part of a class action or the claims of other parties. The arbitrators must follow the law and not disregard the terms of this Agreement. The decision of the arbitrators will be final and binding on all parties to the dispute; however, the arbitrators may not under any circumstances: (i) stay the effectiveness of any pending termination of this Agreement; (ii) assess punitive or exemplary damages; or (iii) make any award which extends, modifies or suspends any lawful term of this Agreement or any reasonable standard of business performance that we set. A judgment may be entered upon the arbitration award by any state or federal court in Indiana or the state of the Authorized Location.

Section 15.02 Injunctive Relief. Notwithstanding Section 15.01 above, you recognize that the Store is one of a large number of stores and stores identified by the Marks and similarly situated and selling to the public similar products, and the failure on the part of a single franchisee to comply with the terms of its agreement could cause irreparable damage to us and/or to some or all of our other franchisees. Therefore, it is mutually agreed that in the event of a breach or threatened breach of any of the terms of this Agreement by you, we will forthwith be entitled to an injunction restraining such breach or to a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and other costs incurred in obtaining said equitable relief, until such time as a final and binding determination is made by the arbitrators. Similarly, it is mutually agreed that in the event of our breach or threatened breach of any of the terms of this Agreement, you will forthwith be entitled to an injunction restraining such breach or to a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and other costs incurred in obtaining said equitable relief, until such time as a final and binding determination is made by the arbitrators. The foregoing equitable remedies are in addition to, and not in lieu of, all other remedies or rights that the parties might otherwise have by virtue of any breach of this Agreement by the other party. Finally, we and our affiliates have the right to commence a civil action against you or take other appropriate action for the following reasons: to compel your compliance with trademark standards and requirements to protect the goodwill of the Marks; to compel you to compile and submit required reports to us; or to permit evaluations or audits authorized by this Agreement.

ARTICLE 16. GENERAL PROVISIONS

Section 16.01 Improvements to System. Any and all improvements in our basic system of operation you or your employees develop (“Improvements”) must be fully and completely disclosed to us, and, if such improvements require the adaptation of an existing element of the basic system for implementation, they will become our property, except that you will receive a royalty-free, nonexclusive license of the Improvements from us. We may incorporate the same in the system and have the sole and exclusive right to copyright, register and protect Improvements in our own name.

Section 16.02 Severability. Should one or more sections of this Agreement be held void or unenforceable for any reason by any court of competent jurisdiction, such clause or clauses will be deemed to be separable in such jurisdiction and the remainder of this Agreement is valid and in full force and effect and the terms of this Agreement must be equitably adjusted so as to compensate the appropriate party for any consideration lost because of the elimination of such clause or clauses. It is the intent and expectation of each of the parties that each provision of this Agreement will be honored, carried out and enforced as written. Consequently, each of the parties agrees that any provision of this Agreement sought to be enforced in any proceeding must, at the election of the party seeking enforcement and notwithstanding the availability of an adequate remedy at law, be enforced by specific performance or any other equitable remedy.

Section 16.03 Independent Contractor.

(a) You and we acknowledge and agree that this Agreement does not create a fiduciary relationship between us, that you are an independent contractor and that nothing contained in this Agreement makes either party an agent, legal representative, partner, or employee of the other. You do not have any right or power to and may not attempt to bind or obligate us in any way or manner whatsoever, nor represent that you have the right to do so.

(b) You have sole responsibility for, and must promptly pay when due, all taxes levied or assessed by reason of your operation and performance under this Agreement, including, but not limited to, local, state and federal, property, license, sales, use leasehold, excise and income taxes. You have the right to contest in good faith the amount or validity of such payments by appropriate legal proceedings. You are responsible for all loss or damage and contractual liabilities to third persons originating in or in connection with the operation of your Store and for all claims or demands for damages to property or for injury, illness or death of persons directly or indirectly resulting therefrom. You further must indemnify and save us harmless from or with respect to any such claims for taxes and other liabilities, loss, expense or damage.

(c) In all building directories, public records and in your relationship with other persons, you must indicate your independent ownership of your business and that you are only our Franchisee and that you independently own and operate your business location. You must file, and/or any permitted assignee must file, and keep on file at all times in the proper public office for the locality involved, a statement showing your actual name as the proprietor of your business, if such is required and/or permitted by the law of the state and for the locality where your place of business is located.

Section 16.04 Article and Section Titles. Article and section titles are used for convenience only and shall not affect the meaning or construction of any provision.

Section 16.05 Entire Agreement. The preamble recitals are incorporated and made a part of this Agreement which, together with the Franchise Disclosure Document (“FDD”), constitutes the entire agreement of the parties (and which supersedes all prior negotiations, commitments, representations and undertakings of the parties with respect to the subject matter of this Agreement). We have made no representations inducing the execution of this Agreement that are not incorporated in this Agreement or the FDD. Nothing in this Agreement requires you to waive reliance on the representations made in the FDD.

Section 16.06 Obligations of Interested Parties.

(a) Except as otherwise provided, all acknowledgments, promises, covenants, agreements and obligations your make or undertake are jointly and severally undertaken by you, all persons signing this Agreement in their individual capacities, and by all guarantors.

(b) You must obtain a signed Confidentiality and Non-Competition Agreement in the form attached as Appendix C, which we may revise from time to time from every general partner, if you are a partnership, or from every stockholder if you are a corporation, and from all Store Managers, and must forward same to us prior to the commencement of training and prior to the acquisition of any such interest by a third party at any time during the term of this Agreement and any extension of this Agreement.

Section 16.07 Written Approval, Waiver and Non-Waiver.

(a) Whenever this Agreement requires our prior approval or consent, which consent will not be unreasonably withheld, you must make a timely written request, and such approval must be obtained in writing. We make no warranties or guarantees upon which you may rely, and assume no liability or obligation to you, by providing any waiver, approval, consent, or suggestion to you in connection with this franchise or by any neglect or delay in furnishing the same.

(b) Our failure to exercise any power reserved to us by this Agreement, or our insistence upon your strict compliance with any obligation or condition of this Agreement, and no custom or practice of the parties at variance with the terms, will constitute a waiver of our right to demand exact compliance with any of the terms of this Agreement. Our waiver of any particular default by you will not affect or impair our rights with respect to any subsequent default of the same, similar or different nature, nor will any delay, forbearance, or omission of us to exercise any power or right arising out of your breach or default of any of the terms, provisions, or covenants of this Agreement, affect or impair our right to exercise the same, nor will such constitute our waiver of any right under this Agreement, or the right to declare any subsequent breach a default and to terminate this Agreement prior to the expiration of its term. Our subsequent acceptance of any payments due to us will not be deemed to be our waiver of any preceding breach by you of any terms, covenants or conditions of this Agreement.

(c) No right or remedy conferred upon or reserved to us or you by this Agreement is intended to be, nor will be deemed exclusive of any other right or remedy in this Agreement or by law or equity provided or permitted; but each will be cumulative of every other right or remedy.

(d) No amendment, change or variance from this Agreement will be binding on either party unless mutually agreed by the parties and signed in writing.

Section 16.08 Designated Agent of Franchisee and Notices. You designate the person listed in Appendix A to act on your behalf and sign all documents in all transactions with us. All actions by such designee will be binding upon you if a corporation and will be valid and binding on any partnerships as if done by each and every partner. We have no duty to deal with anyone other than the designee; however, any documents submitted to us signed by any other officer or partner will be valid and binding upon you. You must promptly notify us in writing of any change in your designated agent. Any notice required or permitted to be given under this Agreement will be sufficient if given in writing and mailed by certified or registered mail to us or your designated agent to the address listed in Appendix A, or to such other address as specified by written notice given pursuant to this section.

If notice is to be provided to us, it must be sent to:

Wild Birds Unlimited, Inc.
11711 N. College Avenue, Suite 146
Carmel, Indiana 46032
Attn: Franchise Development Department

Section 16.09 Specific Performance. Nothing in this Agreement bars our or your right to seek specific performance of the provisions of this Agreement and injunctive relief against threatened conduct that will cause either party loss or damages, under customary equity rules, including applicable rules for obtaining restraining orders and preliminary injunctions.

Section 16.10 Costs and Attorneys' Fees. If a claim for amounts you owe to us or our affiliates is asserted in any proceeding before a court of competent jurisdiction, or in arbitration, or if we or you must enforce this Agreement in a judicial or arbitration proceeding, the party prevailing in such proceeding will be entitled to reimbursement of its costs and expenses, including reasonable accounting and legal fees.

Section 16.11 Interpretation of Rights and Obligations. The following provisions apply to and govern the interpretation of this Agreement, the parties' rights under this Agreement, and the relationship between the parties:

1. Applicable Law and Waiver. Subject to our rights under federal trademark laws and the parties' rights under the Federal Arbitration Act in accordance with Section 15.01 of this Agreement, the parties' rights under this Agreement, and the relationship between the parties is governed by, and will be interpreted in accordance with, the laws (statutory and otherwise) of the state in which your Store is located. Further, you waive the rights and protections that might be provided through the laws of Indiana relating to franchises or dealerships or business opportunities, unless you are an Indiana resident or your Store is located in Indiana.

2. Our Rights. Whenever this Agreement provides that we have a certain right, that right is absolute and the parties intend that our exercise of that right will not be subject to any limitation or review. We have the right to operate, administrate, develop, and change the System in any manner that is not specifically precluded by the provisions of this Agreement, although this right does not modify any express limitations set forth in this Agreement.

3. Our Reasonable Business Judgment. Except in the event of a transfer or assignment in which case we will not unreasonably withhold our consent, whenever we reserve discretion in a particular area or where we agree to exercise our rights reasonably or in good faith, we will satisfy our obligations whenever we exercise Reasonable Business Judgment in making our decision or exercising our rights. Our decisions or actions will be deemed to be the result of Reasonable Business Judgment, even if other reasonable or even arguably preferable alternatives are available, if our decision or action is intended, in whole or significant part, to promote or benefit the System generally even if the decision or action also promotes our financial or other individual interest. Examples of items that will promote or benefit the System include, without limitation, enhancing the value of the Marks, improving customer service and satisfaction, improving product quality, improving uniformity, enhancing or encouraging modernization and improving the competitive position of the System.

Section 16.12 Venue. The parties agree that any suit, action or proceeding with respect to this Agreement must be brought in an appropriate state court located in Hamilton County in the State of Indiana or an appropriate Federal court located in Marion County in the State of Indiana, and the parties waive any questions of personal jurisdiction or venue for the purposes of carrying out this provision. This choice of jurisdiction and venue does not preclude the enforcement by the parties of any judgment or award obtained in such jurisdiction in other appropriate jurisdictions.

Section 16.13 Force Majeure. Neither we nor you will be liable for loss or damage or deemed to be in breach of this Agreement if failure to perform their respective obligations results from: 1) transportation shortages, inadequate supply of labor, materials, energy, or the voluntary foregoing of the right to acquire or use any of the foregoing in order to accommodate or comply with the orders, requests, regulations, recommendations or instructions of any federal, state or municipal government or any department or agency; 2) compliance with any law, ruling, order, regulation, requirement or instruction of any federal, state or municipal government or any department or agency; 3) acts of God; 4) acts or omissions of the other party; 5) fires, strikes, embargoes, war, or riot; or 6) any other similar event or cause. Any delays resulting from any of said causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable.

Section 16.14 Jury Waiver. All parties hereby waive any and all rights to a trial by jury in connection with the enforcement or interpretation by judicial process of any provision of this Agreement, and in connection with allegations of state or federal statutory violations, fraud, misrepresentation or similar causes of action or any legal action initiated for the recovery of damages for breach of this Agreement.

Section 16.15 Waiver of Punitive Damages. You and us and our affiliates waive, to the fullest extent permitted by law, the right to or claim for any punitive or exemplary damages against the other and agree that in the event of any dispute between them, each will be limited to the recovery of actual damages sustained.

IN WITNESS WHEREOF the parties have signed this Agreement on the date set forth below, and the Agreement is effective on the date this Agreement is signed by us as set forth below and on the Cover Page.

“US”: WILD BIRDS UNLIMITED, INC.

By: _____
James R. Carpenter, President Date

“YOU”:

If a partnership or sole proprietorship:

By: _____ Signature	By: _____ Signature
_____	_____
Print Name	Print Name
_____	_____
Date	Date

If a corporation or limited liability company:

_____, a(n) _____ company, of the
(name of corporation/LLC) *(type of company: S-corp, C-corp, LLC)*

State of _____

Attest:

By: _____
Name & Title: _____
Date: _____

APPENDIX A
TO WILD BIRDS UNLIMITED® FRANCHISE AGREEMENT

FRANCHISEE INFORMATION SHEET

1. FRANCHISEE INFORMATION:

A. Type of Franchisee:

_____ Individual(s) _____ Partnership _____ Corporation _____ LLC

B. Name (if not Individual(s)): _____

C. List each individual franchisee or shareholder, partner or manager of your entity identified in A above:

NAME _____
STREET _____
CITY, STATE, ZIP _____
% OF OWNERSHIP _____

NAME _____
STREET _____
CITY, STATE, ZIP _____
% OF OWNERSHIP _____

NAME _____
STREET _____
CITY, STATE, ZIP _____
% OF OWNERSHIP _____

NAME _____
STREET _____
CITY, STATE, ZIP _____
% OF OWNERSHIP _____

2. STORE INFORMATION:

A. Store Address:

STREET _____
CITY _____
STATE/ZIP _____

B. Designated Territory Description:

3. TERM OF FRANCHISE AGREEMENT:

A. Initial Term

- i. This Agreement is for an Initial Term of 10 years.
- ii. The date that the Initial Term begins is ___ / ___ / ___
- iii. The Expiration Date of this Agreement is ___ / ___ / ___

B. Continuation Term

- i. This Agreement is for a Renewal/Continuation Term of 5 years.
- ii. The Commencement Date of this Agreement is ___ / ___ / ___
- iii. The Expiration Date of this Agreement is ___ / ___ / ___
- iv. This Agreement is for Renewal/Continuation Term number _____

C. Assignment Term

- i. This Agreement is for an Initial Term commencing on the date of assignment of the franchise to you and ending on the Expiration Date.
- ii. The date that the Initial Term begins is ___ / ___ / ___
- iii. The Expiration Date of this Agreement is ___ / ___ / ___

4. YOUR AGENT FOR NOTICES:

A. Name: _____

B. Address (if different from Store address in 2A above):

STREET _____

CITY _____

STATE/ZIP _____

APPENDIX B
TO WILD BIRDS UNLIMITED® FRANCHISE AGREEMENT

MARKS

You have the right to use the following trademarks and service marks in accordance with the attached Franchise Agreement.

We may amend this Appendix B from time to time in order to make available additional trademarks or service marks or to delete those that become unavailable. You must use only those trademarks and service marks that are then currently authorized.

WILD BIRDS UNLIMITED word mark	Registered 12/4/84 Reg. No. 1,307,988 Principal Register
WILD BIRDS UNLIMITED word mark	Registered 6/9/92 Reg. No. 1,691,873 Principal Register
WE BRING PEOPLE AND NATURE TOGETHER word mark	Registered 8/31/93 Reg. No. 1,790,379 Principal Register
YOUR BACKYARD BIRDFEEDING SPECIALIST word mark	Registered 8/09/94 Reg. No. 1,848,684 Principal Register
OLD-GROWTH-SAFE word mark	Registered 5/31/94 Reg. No. 1,837,916 Principal Register
Chickadee Bird Design Trademark/service mark	Registered 7/26/94 Reg. No. 1,846,773 Principal Register
WBU Service mark	Registered 8/31/99 Reg. No. 2,274,242 Principal Register
Birdfeeder Logo Trademark	Registered 9/21/99 Reg. No. 2,279,535 Principal Register
Pathways to Nature	Registered 10/16/01 Reg. No. 2,498,785 Principal Register
BirdTracks Trademark	Registered 10/17/2000 Reg. No. 2,395,047 Principal Register
FeederCam Service Mark	Registered 2/22/2000 Reg. No. 2,322,570 Supplemental Register
Advanced Pole System Trademark	Registered 10/31/2000 Reg. No. 2,401,113 Supplemental Register

Birdfeeder Misc. Design 3 dimensional	Registered 6/15/04 Reg. No. 2,852,855 Principal Register
Discover a Refuge in Your Own Backyard word mark	Registered 9/6/05 Reg. No. 2,991,526 Principal Register
Daily Savings Club word mark	Registered 9/27/05 Reg. No. 3,003,020 Supplemental Register
Jim's Birdacious	Registered 1/23/2007 Reg. No. 3,202,221 Principal Register
Now, Every Tree is a Birdfeeder	Registered 5/15/07 Reg. No. 3,242,028 Principal Register
RIGHTBIRD	Registered 9/25/07 Reg. No. 3,296,844 Principal Register
Birdfeeder Logo Design Only	Registered 5/29/01 Reg. No. 2,455,911 Principal Register
Bark Butter	Registered 2/13/2007 Reg. No. 3,208,258 Principal Register
Naturally Nuts	Registered 6/3/97 Reg. No. 2,067,002 Principal Register
Simply Seed	Registered 6/24/97 Reg. No. 2,073,662 Principal Register
Nut'N Raisin	Registered 4/22/97 Reg. No. 2,056,489 Supplemental Register
Simply Suet	Registered 6/24/97 Reg. No. 2,073,661 Principal Register
Fruit Cakes	Registered 4/8/97 Reg. No. 2,051,715 Supplemental Register
Almond Munch	Registered 6/10/97 Reg. No. 2,069,404 Principal Register
Cravin' Raisin	Registered 3/23/99 Reg. No. 2,233,170 Principal Register

Ecotough	Registered 12/15/09 Reg. No. 3,725,078 Principal Register
BugBerry Blend	Registered 11/16/10 Reg. No. 3,878,318 Supplemental Register
Stackables	Registered 10/19/10 Reg. No. 3,866,189 Supplemental Register
TreatTray	Registered 4/19/11 Reg. No. 3,949,608 Supplemental Register
Nutty of Nuts	Registered 5/31/11 Reg. No. 3,971,845 Principal Register
Ecoclean	Registered 5/18/11 Reg. No. 3,963,055 Principal Register
TREENUTTY	Registered 5/29/12 Reg. No. 4,151,737 Principal Register

Each of the above trademarks and service marks may be used only in the manner specified by us and in connection with the goods and services specified by us. No deviations will be permitted.

APPENDIX C
TO WILD BIRDS UNLIMITED® FRANCHISE AGREEMENT

CONFIDENTIALITY AND
NON-COMPETITION AGREEMENT

I, _____, acknowledge that:

(A) the business of Wild Birds Unlimited, Inc. (“WBU”) and its franchisees is a unique business consisting of a retail marketing system created by WBU for the sale and distribution of birdfeeding and nature related products and that I will come into contact with and have access to confidential and proprietary information and “know-how” which is owned by WBU as well as information concerning individual franchisee owned stores, all of which may include marketing plans, vendors and retail operating training manuals (the “Confidential Information”);

(B) disclosure of the Confidential Information to any third party will cause damage to WBU’s and its franchisee’s business; and

(C) WBU is relying upon my good faith in the use and handling of the Confidential Information that I learn or have access to and to insure that it is not used improperly or to the disadvantage of WBU or any of its franchisees.

Therefore, in consideration of receiving the Confidential Information and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, I agree that:

1. I shall not divulge, furnish or make accessible to anyone (other than in the regular course of WBU’s or its franchisees’ business) any of the Confidential Information, as now or hereafter constituted, without the express written consent of WBU. Upon termination of my employment or association with any franchisee of WBU, whether or not the termination is voluntary, I will immediately return to WBU or its designee, all books, manuals, documents, reports, correspondence, notes, samples, or other such materials which contain Confidential Information.

2. Upon the expiration of the Agreement or termination of the Agreement by WBU in accordance with the provisions of the Agreement or by Franchisee without cause, I agree that for a period of 2 years, commencing on the effective date of termination, or the date on which Franchisee ceases to conduct the business conducted pursuant to the Agreement, whichever is later, I will not have any direct or indirect interest as an owner, investor, partner, director, officer, employee, consultant, representative or agent, or in any other capacity, in any store providing principally birdfeeders and/or birdseed or any other nature oriented store offering products for birds or birdfeeding located or operating within Franchisee’s Designated Territory or a radius of 10 miles of any other Store in operation on the effective date of expiration or termination, except for other Stores operated by Franchisee under franchise agreements granted by WBU or the ownership of securities listed on a stock exchange or traded on the over-the-counter market that represent 1% or less of that class of stock. If any part of this Section 2 is deemed inconsistent with applicable law, this Section 2 automatically will be modified and construed in a manner that conforms to applicable law.

3. In addition to any other remedies which may be available to WBU, it shall be entitled to injunctive and/or other equitable relief to prevent or remedy a breach of this Agreement, and to secure its

enforcement. For this purpose, I agree to submit to the exclusive jurisdiction and venue of the courts of the state of Indiana.

4. The remedies provided for in this Agreement are cumulative and not exclusive to each other. I understand that WBU may exercise the remedies set forth in paragraph 2 as well as any other remedies which it may have, at any time, from time to time or at the same time, and the failure to exercise any remedy will not constitute a waiver of this Agreement. Remedies may only be waived in writing and signed by an officer of WBU.

5. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of the remaining provisions, and this Agreement shall be construed as if such invalid or unenforceable provisions were omitted.

6. Nothing in this Agreement is intended or shall be deemed to create (i) any employment relationship between me and WBU, or (ii) any right or privilege to receive additional or further information, training or materials from WBU.

SIGNATURE

DATE

STORE NAME

STREET ADDRESS

PRINT NAME

CITY STATE ZIP CODE

APPENDIX D
TO WILD BIRDS UNLIMITED® FRANCHISE AGREEMENT

WILD BIRDS UNLIMITED® CD-ROM
Franchisee License Agreement

Serial Number:

(FSC Use Only)

IMPORTANT - Please read the entire contents of this agreement. If you DO NOT agree with the terms of this agreement please DO NOT sign this document and notify the MIS department immediately. By signing this agreement you agree to the terms and conditions of this agreement in its entirety.

1. Wild Birds Unlimited, Inc. (WBU) grants you the right to use the current WBU CD-ROM, an electronic version of the WBU handbooks and operating system. The WBU CD-ROM is proprietary and contains trade secret material of WBU and all provisions of the WBU Franchise Agreement are to be followed in the use and protection of the WBU CD-ROM. WBU retains ownership of all contents of the WBU CD-ROM and the media (paper, diskette, CD-ROM, etc.) upon which it is distributed.
2. You may copy the contents of the WBU CD-ROM onto your hard drive as needed but you may not copy the contents onto another CD-ROM.
3. All the artwork on the CD-ROM may be used for advertising purposes only. You may NOT use the artwork for resale merchandise without the prior written consent of WBU.
4. When not in use, the CD-ROM must be kept in a secure place (safe, locked drawer, etc.).
5. The CD-ROM may only be used by duly authorized staff who have signed both Non-Compete and Confidentiality agreements. In the event you need to allow an outside service to use the CD-ROM (e.g., outside printer, graphic designer, etc.), you must complete the Non-Franchisee License Agreement. This must be completed and signed by the franchisee and the outside service. A copy of this form must be sent to the MIS department.
6. WBU reserves the right to recall the WBU CD-ROM at any time. Immediately upon notice of such recall, the franchisee must cause any copies of the WBU Applications to be uninstalled promptly and the WBU CD-ROM must be immediately returned to the MIS Department Franchise Support Center.
7. In the event the WBU software media is lost or stolen, the MIS department at the WBU Franchise Support Center must be notified immediately, and a fee may be charged for replacement media.
8. In the event WBU distributes a new version of the WBU software media, the old version of the WBU CD-ROM must be returned promptly. If the old version of the CD-ROM is not returned by the designated date, then the franchisee will be in default of the Franchise Agreement and a default fee may be imposed.
9. To the maximum extent permitted by applicable law, in no event shall Wild Birds Unlimited be liable for any damages whatsoever arising out of the use of the WBU software product.
10. A new form of this license agreement may be required for future versions of the CD-ROM.

I accept all the terms and conditions set forth in this license agreement. I promise to use the information on the software media in an ethical and confidential manner.

WBU Franchisee Signature: _____ Date: ___/___/___

Print Your Name: _____ Store Location: _____

APPENDIX E
TO WILD BIRDS UNLIMITED® FRANCHISE AGREEMENT

PERSONAL GUARANTEE OF FRANCHISE AGREEMENT

WHEREAS, Guarantor(s) has/have requested that Wild Birds Unlimited, Inc. (“WBU”) enter into a Franchise Agreement with or permit the assignment of a Franchise Agreement to _____ (“Franchisee”) for the Wild Birds Unlimited Franchise located at _____ (the “Franchise Agreement”); and

WHEREAS, as an inducement for WBU to enter into the aforesaid transaction, Guarantor(s) desire to personally and unconditionally guarantee the obligations of Franchisee under the Franchise Agreement.

NOW THEREFORE, in consideration of WBU entering into the aforesaid transaction, in addition to other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Guarantor(s) hereby agree as follows:

1. GUARANTEE OF FINANCIAL OBLIGATIONS. The undersigned Guarantor(s), for themselves, their heirs, successors and assigns, do jointly, individually and severally hereby absolutely and unconditionally guarantee the payment of any and all amounts referenced in, or arising from Franchisee’s performance of all of the covenants, terms, conditions, agreements and undertakings contained and set forth in the Franchise Agreement and in any other agreement(s) now in effect between Franchisee and WBU or to which Franchisee and WBU become a party, and agree that this Guarantee shall be construed as though the undersigned and each of them signed agreement(s) containing the identical terms and conditions of the Franchise Agreement and any other such agreement(s) which give rise to the obligation of any and all amounts due. Notwithstanding anything contained in this Agreement or the Franchise Agreement, the obligation of the Guarantor(s) are limited to sums received by the Franchisee.
2. MODIFICATION OF OBLIGATIONS/CHOICE OF PARTIES. The undersigned Guarantor(s) hereby agree that without the consent of or notice to any of the undersigned and without affecting any of the obligations of the undersigned hereunder: (a) any term, covenant or condition of the Franchise Agreement may be amended, compromised, released or otherwise altered by WBU and Franchisee, and the undersigned do guarantee and promise to pay any and all amounts due by the Franchisee under the Franchise Agreement as so amended, compromised, released or altered; (b) any guarantor of or party to the Franchise Agreement may be released, substituted or added; (c) any right or remedy under the Franchise Agreement, this Guarantee or any other instrument or agreement between WBU and Franchisee may be exercised, not exercised, impaired, modified, limited, destroyed or suspended; and (d) WBU or any other person may deal in any manner with Franchisee Corporation, any of the undersigned Guarantor(s), any party to the Franchise Agreement or any other person.
3. SEVERAL LIABILITY. Should Franchisee be in breach or default under the Franchise Agreement or any other agreement(s) by and between Franchisee and WBU, WBU may proceed directly against any or each of the undersigned Guarantor(s) without first proceeding against Franchisee and without proceeding against or naming in such suit any other Franchisee, signatory to the Franchise Agreement, others of the undersigned Guarantors or any other guarantor of the Franchise Agreement.

4. RELEASE. The cessation of or release from liability of Franchisee or any of the undersigned shall not relieve any other Guarantor(s) from liability hereunder, under the Franchise Agreement, or under any other agreement(s) between WBU and Franchisee, except to the extent that the breach or default has been remedied or monies owed have been paid.

5. NO WAIVER. Any waiver, extension of time or other indulgence granted by WBU or its agents, successors or assigns, with respect to the Franchise Agreement or any other agreement(s) by and between Franchisee and WBU, shall in no way modify or amend this guarantee, which shall be continuing, absolute, unconditional and irrevocable.

6. WBU SUCCESSORS. It is understood and agreed by the undersigned that the provisions, covenants and conditions of this Guarantee shall inure to the benefit of WBU, its successors and assigns. This Guarantee may be assigned by WBU voluntarily or by operation of law without reducing or modifying the liability of the undersigned.

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

In all other respects, the Franchise Agreement is hereby ratified and reaffirmed.

IN WITNESS WHEREOF, each of the undersigned has signed this Guarantee effective as of the date of the Franchise Agreement.

Name

Name

Address

Address

Date

Date

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE AGREEMENT FOR THE
STATE OF CALIFORNIA

This Addendum pertains to franchises sold in the State of California and is for the purpose of complying with California statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement is amended as follows:

1. Article 13 of the Franchise Agreement contains a covenant not to compete which extends beyond the term of the franchise. This provision may not be enforceable under California law.

2. In all other respects, the Franchise Agreement will be construed and enforced according to its terms.

YOU: _____

WE: WILD BIRDS UNLIMITED, INC.

By _____

By _____

Title _____

Title _____

Date _____

Date _____

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE AGREEMENT FOR THE
STATE OF ILLINOIS

This Addendum pertains to franchises sold in the State of Illinois and is for the purpose of complying with Illinois statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement is amended as follows:

1. The second sentence of Section 16.07(a) of the Agreement is deleted in its entirety.
2. The first sentence of Section 16.12 is deleted in its entirety, and the following is substituted:

Subject to Section 15.01, any cause of action, claim, suit or demand allegedly arising from or related to the terms of this Agreement or the relationship of the parties must be brought in the Illinois federal or state court for the Designated Area in which you are located.

3. The Acknowledgment Addendum attached to the Franchise Agreement (and specifically stating that it is not for use in the State of Illinois) is unenforceable under Illinois law because it may have the effect of forcing a franchisee to waive or release certain rights that you as a franchisee have under the Illinois Franchise Disclosure Act, 815 IL § 705.

4. Section 16.11(1) is deleted in its entirety and replaced with the following:

Applicable Law and Waiver. Subject to our rights under federal trademark laws and the parties' rights under the Federal Arbitration Act in accordance with Section 15.01 of this Agreement, the parties' rights under this Agreement, and the relationship between the parties is governed by, and will be interpreted in accordance with, the laws (statutory and otherwise) of Illinois.

5. Except as amended herein, the Franchise Agreement will be construed and enforced in accordance with its terms.

Each of the undersigned hereby acknowledges having read and understood this Addendum and consents to be bound by all of its terms.

YOU: _____

WE: WILD BIRDS UNLIMITED, INC.

By _____

By _____

Title _____

Title _____

Date _____

Date _____

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE AGREEMENT FOR THE
STATE OF MARYLAND

This Addendum pertains to franchises sold in the State of Maryland and is for the purpose of complying with Maryland statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement is amended as follows:

1. The following sentence is hereby added to the end of Section 3.02, Renewal Term and Conditions of Renewal:

The general release required as a condition of renewal shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

2. The following sentence is hereby added to the end of Section 14.02(c)(vii), Assignments:

The general release required as a condition of assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

3. The following sentence is hereby added to the end of Section 16.07, Written Approval, Waiver and Non-Waiver:

Nothing in this Section 16.07, however, will act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

4. Section 16.12, Venue, is amended to provide that you may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Section 16.12 is further amended to provide that any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three (3) years after the date of the Franchise Agreement.

5. Any provision in the Agreement that requires you to disclaim the occurrence and/or acknowledge the non-occurrence of acts that would constitute a violation of the Maryland Franchise Registration and Disclosure Law is not intended to nor will it act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

6. Except as amended herein, the Franchise Agreement will be construed and enforced in accordance with its terms.

Each of the undersigned hereby acknowledges having read and understood this Addendum and consents to be bound by all of its terms.

YOU: _____

WE: WILD BIRDS UNLIMITED, INC.

By _____

By _____

Title _____

Title _____

Date _____

Date _____

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE AGREEMENT FOR THE
STATE OF MINNESOTA

This Addendum pertains to franchises sold in the State of Minnesota and is for the purpose of complying with Minnesota statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement is amended as follows:

1. We will undertake the defense of any claim of infringement by third parties involving the WILD BIRDS UNLIMITED mark, and you will cooperate with the defense in any reasonable manner prescribed by us with any direct cost of such cooperation to be borne by us.

2. Minnesota law provides franchisees with certain termination and nonrenewal rights. As of the date of this Franchise Agreement, Minn. Stat. Sec. 80C.14, Subd. 3, 4 and 5 require, except in certain specified cases, that a franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for nonrenewal of the franchise agreement.

3. The second sentence of Section 15.02 of the Agreement is deleted in its entirety and will have no further force and effect and the following is substituted in lieu thereof:

Therefore, it is mutually agreed that in the event of a breach or threatened breach of any of the terms of this Agreement by you, we will forthwith be entitled to seek an injunction restraining such breach or to a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and other costs incurred in obtaining said equitable relief, until such time as a final and binding determination is made by the arbitrators.

4. Section 16.12 is modified to reflect that Minn. Stat. Sec. 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside of Minnesota. To the extent the Franchise Agreement requires litigation to be conducted outside of Minnesota, such provision is void.

5. Section 16.14 is hereby deleted in its entirety.

6. No release language set forth in the Franchise Agreement shall relieve Franchisor or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Minnesota, provided, that this part will not bar the voluntary settlement of disputes.

7. Except as amended herein, the Franchise Agreement will be construed and enforced in accordance with its terms.

Each of the undersigned hereby acknowledges having read and understood this Addendum and consents to be bound by all of its terms.

YOU: _____

WE: WILD BIRDS UNLIMITED, INC.

By _____

By _____

Title _____

Title _____

Date _____

Date _____

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE AGREEMENT FOR THE
STATE OF NORTH DAKOTA

This Addendum pertains to franchises sold in the State of North Dakota and is for the purpose of complying with North Dakota statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement is amended as follows:

1. The covenant not to compete upon termination or expiration of this Agreement contained in Article 13 may be unenforceable, except in certain circumstances provided by law;

2. Your consent to jurisdiction and venue in Indiana contained in Section 16.12 may be inapplicable; provided, however, that such inapplicability in the State of North Dakota will not be construed to mean that venue in Indiana is improper, or that Franchisee and its officers, directors and shareholders are not subject to jurisdiction in Indiana or in any other state;

3. Your consent to the application of Indiana law contained in Section 16.11 may be inapplicable; provided, however, that such inapplicability in the State of North Dakota will not be construed to mean that Indiana law is improper, or that Franchisee and its officers, directors and shareholders are not subject to Indiana law or the laws of any other state;

4. The provisions of Section 15.01 requiring arbitration hearings to take place in Indianapolis, Indiana, will be inapplicable and in the event of arbitration between Franchisor and Franchisee, such arbitration will be conducted in Fargo, North Dakota, or at a mutually agreed upon location;

5. The parties' waiver of their right to trial by jury, as set forth in Section 16.14, may not be enforceable under North Dakota law;

6. The parties' waiver of their right to claim punitive damages, as set forth in Section 16.15, may not be enforceable under North Dakota law; and

7. You may not be required to sign a general release as a condition of renewal under Section 3.02(g) of the Franchise Agreement.

8. Nothing contained in Article 12 of the Franchise Agreement shall be construed as to require the Franchisee to consent to any termination penalties, as such penalties are unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law.

9. Except as amended herein, the Franchise Agreement will be construed and enforced in accordance with its terms.

Each of the undersigned hereby acknowledges having read and understood this Addendum and consents to be bound by all of its terms.

YOU: _____

WE: WILD BIRDS UNLIMITED, INC.

By _____

By _____

Title _____

Title _____

Date _____

Date _____

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE AGREEMENT FOR THE
STATE OF RHODE ISLAND

This Addendum pertains to franchises sold in the State of Rhode Island and is for the purpose of complying with Rhode Island statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement is amended as follows:

1. The Rhode Island Franchise Investment Act (the "Act") at Section 19-28.1-14 provides that "a provision in a franchise agreement restricting jurisdiction or venue to a forum outside of this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act." The parties agree that to the extent that any provision in any of the Contracts entered into by the parties are inconsistent with the Act, the provisions of the Act shall control. They furthermore expressly agree that Rhode Island law shall be applied to, and govern, any claim between the parties that alleges violation of the Act.

2. Except as amended herein, the Franchise Agreement will be construed and enforced in accordance with its terms.

Each of the undersigned hereby acknowledges having read and understood this Addendum and consents to be bound by all of its terms.

YOU: _____

WE: WILD BIRDS UNLIMITED, INC.

By _____

By _____

Title _____

Title _____

Date _____

Date _____

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE AGREEMENT FOR THE
STATE OF VIRGINIA

This Addendum pertains to franchises sold in the State of Virginia and is for the purpose of complying with Virginia statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement is amended as follows:

1. All cross default provisions of the Franchise Agreement and their corresponding disclosures in Item 17 of the Disclosure Document are hereby deleted in their entirety.
2. Except as amended herein, the Franchise Agreement will be construed and enforced in accordance with its terms.

Each of the undersigned hereby acknowledges having read and understood this Addendum and consents to be bound by all of its terms.

YOU: _____

WE: WILD BIRDS UNLIMITED, INC.

By _____

By _____

Title _____

Title _____

Date _____

Date _____

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE AGREEMENT FOR THE
STATE OF WASHINGTON

This Addendum pertains to franchises sold in the State of Washington and is for the purpose of complying with Washington statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement is amended as follows:

1. Article 12 of the Franchise Agreement is amended by the addition of the following language:

If any of the provisions in the Franchise Offering Circular or Franchise Agreement are inconsistent with the relationship provisions of R.C.W. 19.100.180 or other requirements of the Washington Franchise Investment Protection Act, the provisions of the Act will prevail over the inconsistent provisions of the Franchise Offering Circular and Franchise Agreement with regard to any franchise sold in Washington.

2. The second sentence of Section 15.01 is hereby deleted in its entirety and the following substituted in lieu thereof:

The arbitration must take place 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. Article 16 of the Franchise Agreement is amended by the addition of the following language:

A release or waiver of rights executed by you will 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. Except as amended herein, the Franchise Agreement will be construed and enforced in accordance with its terms.

Each of the undersigned hereby acknowledges having read and understood this Addendum and consents to be bound by all of its terms.

YOU: _____

WE: WILD BIRDS UNLIMITED, INC.

By _____

By _____

Title _____

Title _____

Date _____

Date _____

ADDENDUM TO
WILD BIRDS UNLIMITED®
FRANCHISE AGREEMENT FOR THE
STATE OF WISCONSIN

This Addendum pertains to franchisees in the State of Wisconsin and is for the purpose of complying with Wisconsin statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement is amended as follows:

1. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, Section 12.01 of the Agreement pertaining to "Termination by Us" is extended as follows:

We will provide you at least 90 days' prior written notice of termination, cancellation, or substantial change in competitive circumstances. The notice will state all the reasons for termination, cancellation, or substantial change in competitive circumstances and will provide that you have 60 days in which to rectify any claimed deficiency. If the deficiency is rectified within 60 days, the notice will be void. If the reason for termination, cancellation, or substantial change in competitive circumstances is nonpayment of sums due under the franchise, you will be entitled to written notice of such default, and will have not less than 10 days in which to remedy such default from the date of delivery or posting of such notice.

2. Ch. 135, Stats., the Wisconsin Fair Dealership Law, supersedes any provisions of this Agreement or a related document between you and us inconsistent with the Law.

3. Except as amended herein, the Franchise Agreement will be construed and enforced in accordance with its terms.

Each of the undersigned hereby acknowledges having read and understood this Addendum and consents to be bound by all of its terms.

YOU: _____

WE: WILD BIRDS UNLIMITED, INC.

By _____

By _____

Title _____

Title _____

Date _____

Date _____

Exhibit D

INITIAL FRANCHISE FEE AMENDMENT (ADDITIONAL STORE)

INITIAL FRANCHISE FEE AMENDMENT
(Additional Store)

THIS AGREEMENT is entered into on _____, _____, by and between _____(FRANCHISEE”) and **Wild Birds Unlimited, Inc.**, an Indiana corporation (“FRANCHISOR”) for the purpose of amending the Franchise Agreement granted to FRANCHISEE on _____, 20____ (the “Franchise Agreement”) for the operation of a Wild Birds Unlimited in _____ (the “Franchise”).

FRANCHISEE AND FRANCHISOR acknowledge and agree that, for good and valuable consideration, the Franchise Agreement is hereby amended as follows:

1. **Initial Fee (Sect. 7.01).** Replace the existing Section 7.01 with: An initial, non-refundable franchise fee of nine thousand dollars (\$9,000.00) shall be owed to Wild Birds Unlimited, Inc. upon execution of this Franchise Agreement. This initial, non-refundable fee shall be paid according to the following schedule:

One payment of Four thousand dollars (\$4,000.00) upon execution of the Franchise Agreement. Two thousand dollars (\$2,000.00) if a Reservation Agreement has been signed prior to the execution of the Franchise Agreement.

Ten monthly payments of Five hundred dollars (\$500.00) due on or before the 10th of the month beginning the second month of operation and ending the eleventh month of operation.

2. Except for the language above, every other term of Franchise Agreement is unchanged and shall remain in full force and effect.

The parties execute this Amendment effective as of the date first written above.

FRANCHISEE (S):

WILD BIRDS UNLIMITED, INC.:

Signature

By: _____

Its: _____

Print Name and Title

Date: _____

As officer of _____

Date: _____

Exhibit E

**AUTHORIZATION AND GIFT CARD
PARTICIPATION AGREEMENT**

Authorization and Gift Card Participation Agreement

In consideration of Wild Birds Unlimited, Inc. ("Franchisor") permitting the franchisee identified below ("Franchisee") to participate in the gift card program described below (the "Program"), and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Franchisor and Franchisee agree as follows:

1. The Program allows Franchisee's customers to prepay in specific amounts for product purchases through the acquisition of gift cards issued by Franchisee and bearing Franchisor's trademarks, service marks or logos (the "Gift Card"). The operation of the Program is described on Exhibit A attached to this Authorization and Gift Card Participation Agreement (this "Agreement").
2. Franchisee hereby agrees to participate in the Program.
3. Franchisee acknowledges and agrees that Franchisee is the issuer of Gift Cards under the Program and that Franchisee is responsible for compliance with all federal, state and local laws, rules and regulations applicable to Franchisee in that capacity (including, without limitation applicable state laws, rules and regulations regarding licensing, bonding, reporting, unclaimed property and taxes). Franchisor is only a service provider with respect to the Program and provides Gift Card processing and other operational support, either directly or through third parties with whom Franchisor has or will enter into various relationships (such as Givex USA Corporation ("Givex") who will provide gift card processing services for the Program as described in Exhibit 1). Franchisor is not an issuer of Gift Cards under the Program, has no fiduciary or other responsibilities under the Program (except those expressly stated in this Agreement), and only facilitates Franchisee's participation in the Program by providing or arranging for such services.
4. In order to participate in the Program, Franchisee must:
 - a. Execute and deliver this Agreement to Franchisor, and comply with the terms and conditions of this Agreement.
 - b. Execute and deliver a Gift Card Automated Clearing House (ACH) Agreement in the form attached as Exhibit 2 to Franchisor (the "ACH Agreement"), and comply with the terms and conditions of the ACH Agreement.
 - c. Establish and continuously maintain a segregated bank account, separate from its primary checking account, that will only hold an amount equal to or greater than Franchisee's outstanding Gift Card liability (at retail value) (the "Gift Card Account").
 - d. Provide and maintain an electronic card issuing terminal that is compatible with and can interface with the Givex or other processing system to be used for the Program.
 - e. Provide and maintain adequate communication lines for both the issuing and verification terminals from Franchisee store location(s).
 - f. Provide access (physical and electronic) and assistance to Franchisor and its service providers (including Givex) to prepare and permit issuing and verification terminals at Franchisee store location(s) to be used in the Program.
 - g. Comply with Franchisor's recommended accounting procedures as outlined in Franchisor's Gift Card Program Reports and Administration Guide, as supplemented and amended from time to time.

h. Comply with all rules, regulations, instructions, directives and policies as may be issued from time to time by Franchisor regarding the Program, as supplemented and amended from time to time (collectively, "Program Rules"). Any such Program Rules issued by Franchisor will be deemed to be a part of this Agreement as and when issued by Franchisor. Any conflict between this Agreement and any Program Rules will be resolved in favor of such Program Rules.

5. The costs to participate in the Program include the following:

a. Program Gift Cards and other Program-related materials must be purchased from Franchisor. Franchisee will pay an upfront cost to purchase each Gift Card. The service fee charged by Givex will be included in such cost as well as an additional administration fee to Franchisor. Franchisor may modify such costs, including, without limitation, to cover any cost increases incurred when cost increases are sustained from third party vendors that provide support services to the Franchisor.

b. Franchisor will provide Franchisee with a software add on to enable the Program to work in conjunction with Givex. Franchisor may require Franchisee to execute and deliver to Franchisee or Givex a software sublicense in the form provided by Franchisor to permit Franchisee's use of such software. The fee for such software add on, if any is charged by Givex, must also be paid by Franchisee.

c. If Franchisee does not currently have a credit card terminal that is compatible with the Givex processing system and would like to issue Gift Cards, Franchisee will be required to either purchase a terminal from Franchisor (at the then current price charged by Franchisor to its franchisees) or a Franchisor-recommended supplier in order to participate in the Program.

d. All costs and expenses of Franchisee related to its participation in the Program are costs and expenses of Franchisee (including, without limitation, costs and expenses described in this Agreement and in the Program Rules).

6. This Agreement is effective on the "Effective Date" set forth below and will continue until the termination or expiration of the Gift Card processing arrangement between Givex and Franchisor or the Franchise Agreement between Franchisor and Franchisee ("Franchise Agreement"), whichever occurs first (the "Program Term"). This Agreement and Franchisee's participation in the Program may also be terminated or suspended by Franchisor before the expiration of the Program Term upon written notice by Franchisor to Franchisee (a) if Franchisee ceases to operate retail outlets pursuant to a Franchise Agreement, (b) if Franchisee is in breach of or default under the terms of this Agreement, the ACH Agreement, any Franchise Agreement, any other agreement between Franchisor and Franchisee (including, without limitation, if Franchisee is delinquent in paying any amount due to Franchisor, or if Franchisee does not comply with the terms of the Program), (c) if Franchisee revokes or modifies its authorization under the ACH Agreement, or (d) if Franchisor determines in its business judgment that, due to financial or other factors affecting Franchisee, Franchisee is no longer a suitable participant in the Program (including, without limitation, if Franchisee does not have sufficient funds in its Gift Card Account to cover all outstanding Franchisee Gift Card liabilities). Upon expiration of the Program Term, or in the event Franchisee's participation in the Program is suspended or terminated, Franchisee agrees to (i) issue no more Gift Cards, (ii) maintain in effect its authorization under the ACH Agreement (or such replacement ACH authorization as is required by Franchisor) and not revoke or modify such authorization until such time as Franchisor verifies that Franchisee has no outstanding Gift Card liabilities, (iii) maintain sufficient funds in its Gift Card Account to cover all outstanding Franchisee Gift Card liabilities and (iv) continue to honor all Gift Cards presented at Franchisee's store location(s) (including for Interstore Transactions (as defined in Exhibit A)) until such time as Franchisor verifies that Franchisee has no outstanding Gift Card liabilities. In the event Franchisee has insufficient funds in its Gift Card Account to pay any amount due hereunder and such amount is collected from the Franchisor, Franchisee shall remain fully liable to Franchisor for such amount, and any costs, expenses, losses and damages incurred by Franchisor with respect to such failure to pay.

7. Franchisee acknowledges and agrees that a breach of or default under this Agreement by Franchisee also constitutes a breach of and default under the Franchise Agreement between Franchisee and Franchisor. Further, Franchisee's obligations to protect and indemnify Franchisor (and related parties) under

the Franchise Agreement shall apply to Franchisee's obligations under the Program and this Agreement. Any personal guarantees signed by individuals associated with Franchisee shall apply to all Franchisee payment and other liabilities and obligations hereunder.

8. This Agreement is deemed effective as of the Effective Date noted below.

FRANCHISEE:

Franchisee Legal Business Name: _____

By: _____

Title: _____

Franchisee's Address: _____

FRANCHISEE GUARANTORS:

FRANCHISOR:

WILD BIRDS UNLIMITED, INC.

By: _____

Title: _____

Effective Date: _____

Exhibit A

Program Description

1. The Program allows Franchisee's customers to prepay in specific amounts for product purchases and to then purchase product at Franchisee's store (and when interstore Gift Card redemptions are permitted by Franchisor, at participating Wild Birds Unlimited stores) using a Gift Card issued by Franchisee (and when interstore Gift Card redemptions are permitted by Franchisor, by Gift Cards also issued by other participating Wild Birds Unlimited franchisees).
2. When a Gift Card is purchased, all monies and related liabilities will be retained at the store of purchase and will be the responsibility of the Franchisee to monitor. To effectuate this, Givex, through its arrangements with Franchisor, will provide the following services:
 - a. A complete Gift Card processing program, which is a system for real-time Gift Card authorization and accounting and funds settlement procedures.
 - b. Provide reports that will be available via a secure web site for next day viewing of daily transaction detail.
 - c. With the assistance of Franchisee, prepare individual terminals at each Franchisee store to accept Gift Cards by programming terminals.
 - d. Maintain an automated balance inquiry system that is available 24 hours a day 365 days a year which may be accessed by Franchisee by a toll free telephone number.
3. Each month, Givex will email Franchisee a monthly balance report (the "Gift Card Balance Report"). Within ten (10) days of Franchisee's receipt of a Gift Card Balance Report, Franchisee must reconcile its outstanding Gift Card liability using the Gift Card Balance Report. If sufficient funds are not available to cover Franchisee's Gift Card liability, then the Franchisee must transfer money into the Gift Card Account to cover the liability in full.
4. Franchisor has a right to audit Franchisee's Gift Card Account to ensure sufficient funds exist in order to cover all outstanding Gift Card liability. Within 5 business days after any audit request by Franchisor, Franchisee agrees to provide Franchisor with bank account balances and current Gift Card liability reports and reconciliations and other information, documents and records requested by Franchisor in order for Franchisor to determine if sufficient funds exist to cover Franchisee's Gift Card liability.
5. With respect to Gift Cards issued by Franchisee, Franchisee will not be eligible to utilize Franchisor's trademarks, service marks or logos on Gift Cards or otherwise in connection with the Program if Franchisee (a) assesses any inactivity fees, (b) states any expiration date, or (c) issues Gift Cards in amounts greater than \$500 per Gift Card, except as each activity may be approved in advance in writing by Franchisor (which Franchisor has no obligation to do).
6. The following procedures apply to Interstore Gift Card redemption transactions (an "Interstore Transaction"). For purposes of the Program, an Interstore Transaction occurs where a customer purchases a Gift Card from one franchisee's store (the "Issuing Store") and redeems the Gift Card at another franchisee's store (the "Redeeming Store").
 - a. Gift Card issuance and the Issuing Store's obligations continue as described in this Exhibit A, with the addition of the terms of this Section 6.

b. The Issuing Store and the Redeeming Store split funds with respect to the Gift Card value redeemed by a customer at the Redeeming Store (the "Redeemed Value") as follows:

i. The Redeeming Store will be entitled to receive from the Issuing Store 82% of the Redeemed Value and the Issuing Store will be entitled to retain 18% of the Redeemed Value. For example, where a Gift Card for \$100 has been issued by the Issuing Store and is redeemed for \$50 at the Redeeming Store, \$41 (82% * 50) will be transferred via ACH debit, on a monthly basis (in connection with Givex's preparation of Gift Card Balance Reports and associated Gift Card transaction reconciliations by Givex), from the Issuing Store's Gift Card Account to the Redeeming Store's Gift Card Account and the Issuing Store will be entitled to retain \$9 (18% * 50) in the Issuing Store's Gift Card Account (together with the still unredeemed \$50 Gift Card value which remains as the Issuing Store's Gift Card liability with respect to the customer's Gift Card).

ii. Givex will prepare and provide to Franchisee monthly reports of Interstore Transactions, to be included in the Gift Card Balance Report. The Gift Card Balance Report will account for amounts due from or paid to a Franchisee regarding Interstore Transactions. Based on such Gift Card Balance Reports, Givex will transfer Interstore Transaction funds in and out of a Franchisee's Gift Card Account under the ACH Agreement.

7. The following applies to a Franchisee's Gift Card Account:

a. Franchisee will establish and continuously maintain a Gift Card Account.

b. In addition to serving as the account to hold funds with respect to Franchisee's Gift Card liability, the Gift Card Account will be used to either withdraw funds that are due from the Franchisee for the Program or into which funds will be deposited if they are due to Franchisee under the Program.

c. Franchisee agrees to pay the following fees to Givex (as and when required by Givex) in the event of a failed ACH transaction: (i) \$50 if the transaction failure is due to insufficient funds in the Gift Card Account; (ii) \$30 if the transaction failure is due to invalid bank account information. Such fees are subject to change as such fees are changed from time to time by Givex.

d. Franchisee agrees to execute the ACH Agreement to allow Givex to electronically debit and credit Franchisee's Gift Card Account.

e. Gift Card redemption shall be subject to availability of the processing system selected by Franchisor. Franchisee shall immediately notify Franchisor at 866-MIS-DEPT (866-647-3378) in the case of any technical difficulties with the Gift Card Program.

Exhibit 2

ACH Agreement

**WILD BIRDS UNLIMITED GIFT CARD PROGRAM
AUTOMATED CLEARING HOUSE (ACH) AND CREDIT CARD AUTHORIZATION AGREEMENT**

Pursuant to the merchant Agreement between Wild Birds Unlimited and its affiliates, if any, and Givex Corporation and its affiliates, it will be necessary for each Wild Birds Unlimited location or franchise (a "Participant") to provide Givex with its banking information to facilitate funds transfer by ACH from one Participant to another as part of the sales and redemption process for those gift cards that are sold by a Participant and redeemed, in whole or part, by another Participant. It is each Participant's obligation to inform Givex of any changes to the banking information it provided. Neither Wild Birds Unlimited nor Givex will be liable for any funds incorrectly transferred as a result of errors in banking information that directly resulted from information provided by a Participant. Each Participant must activate and/or redeem the gift cards as specified by Givex and Wild Birds Unlimited in order for controlled, accurate tracking of the gift cards as outlined in the Gift Card Participation Agreement. All information obtained as part of the gift card program will only be used for administration of the Gift Card Program. Each Participant must provide valid credit card information as a secondary form of payment in the event of a failed ACH transfer, whether due to insufficient funds or for any other reason. By providing its credit card information and signing below Company authorizes such payment. Company also authorizes payment to Givex of fees specified in the Gift Card Participation Agreement.

Company Details

Location Name:		Contact Name:	
Store Number (SID):		Outlet ID (internal use only)	
Address Line 1:			
Address Line 2:			
City:		Telephone:	
State:		Fax:	
Zip Code:		Email:	

Bank Account Information: In order to be a participant in the Wild Birds Unlimited Gift Card Program, the Company must establish a secondary bank account pursuant to the Gift Card Participation Agreement.

Pursuant to the Gift Card Participation Agreement with Wild Birds Unlimited, Company hereby authorizes Givex, in its own capacity and as agent for other Participants, to initiate debit entries to the Company's account shown below. It is hereby acknowledged that the origination of ACH transactions must comply with applicable provisions of U.S. law and that this authorization is to remain in full force and effect until Givex has received written revocation from the Company in such time and manner as to afford Givex and the listed bank a reasonable opportunity to act on the revocation.

Bank Name:			
City:		State:	
Bank Routing Number (9 digits):		Account Number:	
Account Type: Checking: () Savings: ()		Note: Please ensure an account type is selected. Incomplete forms will not be processed.	
EXAMPLE: In this example, the Bank Transit/Routing Number is "124574001", and the Account Number is "784512"		* 000000 * * [124574001] 784512 *	

*****TO ENSURE ACCURACY, PLEASE SUBMIT OR FAX A VOIDED CHECK COPY*****

FAX TO: 317-571-7110 ATTN: AMY MOORE

Authorized Signature

Date

Exhibit F

LIST OF EXISTING FRANCHISEES AND TERMINATED FRANCHISEES AND THOSE WHO HAVE OTHERWISE LEFT THE SYSTEM

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

State	Franchisee	Address	City	State	Zip	Country	Phone	Email
AL	Joe Perez	1580 Montgomery Hwy	Birmingham	AL	35216	USA	(205) 823-6500	wbubirmingham@att.net
	Gary & Linda Eberhart	4800 Whitesburg Drive, Suite 9B	Huntsville	AL	35802	USA	(256) 536-9128	lindae@wbirdsu.com
	Martha Terry and Caldwell Terry	6345-C Airport Blvd.	Mobile	AL	36608	USA	(251) 380-0280	wbumobile@att.net
AR	Mary Rhodes	312 Merchants Walk, Ste. 5B	Tuscaloosa	AL	35406	USA	(205) 366-0309	wbu_tuscaloosa@bellsouth.net
	Jim Allen	1818 N. Taylor Street	Little Rock	AR	72207	USA	(501) 666-4210	pointman@aristotle.net
	Mary Lynn Jordan	2011 Promenade Blvd. Ste. 430	Rogers	AR	72758	USA	(479) 246-0217	wbu.rogers@gmail.com
AZ	Victor & Marie Reece	7480 W. Bell Road, Ste. 104	Glendale	AZ	85308	USA	(623) 773-3000	wbuglendaleaz@aol.com
	David Covey & MaryAnne Kenefic	2110 E. Baseline Rd., Suite 1	Mesa	AZ	85204	USA	(480) 507-2473	wildbirdsunlimited@cox.net
	Josh & Alicia Horsman	Coming Soon	Scottsdale	AZ	85253	USA	(480) 459-1604	malachik@yahoo.com
	Phil & Marcia Tucker	49 N. Coronado, Suite C	Sierra Vista	AZ	85635	USA	(520) 378-9441	wbunlimited1013@qwestoffice.net
	Brad Brockman	6546 E. Tanque Verde Road, Suite #150	Tucson	AZ	85715	USA	(520) 299-9585	brockmanb@gmail.com
CA	Eric & Sara Dalrymple & Danny Clifford	7645 N. Oracle Rd., #110	Tucson	AZ	85704	USA	(520) 878-9585	wbuoracle@gmail.com
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State	Franchisee	Address	City	State	Zip	Country	Phone	Email
	Julie & Larry Baldwin	6839 E. Broad St.	Columbus	OH	43213	USA	(614) 860-1133	jlbaldwin@cs.com
	Chris & Wanda Stranahan	597 Howe Avenue	Cuyahoga Falls	OH	44221	USA	(330) 922-4990	naturesflight@nls.net
	Tim Coats	1196 West Kemper Rd.	Forest Park	OH	45240	USA	(513) 825-7777	wildbirdsunlimited@fuse.net
	Jeanette McDaniel	4027 Far Hills Avenue	Kettering	OH	45429	USA	(937) 299-1102	wbukettering@sbcglobal.net
	David & Jodi Pretnar	5736 Mayfield Road	Mayfield Heights	OH	44124	USA	(440) 449-3324	wbu73@aol.com
	Sheryl & Brian Caine	26791 Brookpark Extension	North Olmsted	OH	44070	USA	(440) 777-1233	seed4u@sbcglobal.net
	Martha & Thomas Fisher	4428 Milan Rd.	Sandusky	OH	44870	USA	(419) 626-5843	mmfisher@woh.rr.com
	Monica & Brad Brubaker	734 N. Main Street	Springboro	OH	45066	USA	(937) 748-8979	mbsnest@woh.rr.com
	Sheryl & Brian Caine	14178 Pearl Road	Strongsville	OH	44136	USA	(440) 846-6443	seed4u@sbcglobal.net
	Bernie Place	5236 Monroe Street, Suite D	Toledo	OH	43623	USA	(419) 841-7219	wbutol@msn.com
	Pam & Dan Hall	720 North State Street	Westerville	OH	43082	USA	(614) 899-9453	pam@wbwesterville.com
OK	Nancy LaTona	Brookhaven Village 3770 W. Robinson, Suite 104	Norman	OK	73072	USA	(405) 321-8686	wbunormanok@sbcglobal.net
	Billye Alexander & Kaye Cohn	6409 North Olie 63 rd & North Western	Oklahoma City	OK	73116	USA	(405) 842-9910	wbuokc@swbell.net
	Ronnie & Deborah Early	KingsPointe Village Shopping Center 5960 S. Yale Ave	Tulsa	OK	74135	USA	(918) 477-7408	wbutulsaok@sbcglobal.net
OR	Kevin & Jen Lair	Forum Center 2680 NE Hwy 20, Ste 310	Bend	OR	97701	USA	(541) 617-8840	wbubend@yahoo.com
	Ken Hilton & Norma Taylor	1935 NW 9th St.	Corvallis	OR	97330	USA	(541) 757-0120	wildbirds@callatg.com
	Barbara & Dan Gleason and Becky Uhler	Coming Soon	Eugene	OR		USA	(541) 345-3974	bdgleason@comcast.net
	Katy Reed	712 Crater Lake Ave.	Medford	OR	97504	USA	(541) 770-1104	wbumedford@qwestoffice.net
	Chris & Karen Brindle	1210 Commercial Street SE	Salem	OR	97302	USA	(503) 363-9744	wbu2salem@gmail.com
PA	Will & Pat Vamer	4251 Tilghman Street	Allentown	PA	18104	USA	(610) 366-1725	pmvarner@aol.com
	Michael & Jeanne O'Shea	PO Box 663 4920 York Road	Buckingham	PA	18912	USA	(215) 794-3888	wbubuckingham@verizon.net
	Joann & Gary Kostrobala	Dallas Shopping Center Memorial Hwy	Dallas	PA	18612	USA	(570) 675-9900	wbu362@epix.net
	Betty Pauciello & Nina Resavage	Dreshertown Plaza 1650 Limekiln Pike	Dresher	PA	19025	USA	(215) 654-1993	wbudresher@verizon.net
	Frank & Cheryl Zalik	Village West #17 3330 W. 26 th St	Erie	PA	16506	USA	(814) 838-5145	wbuerie@hotmail.com
	Knox Brown & Laura	3848 William Penn Hwy.	Monroeville	PA	15146	USA	(412) 374-0678	wbumonroe@hotmail.com

State	Franchisee	Address	City	State	Zip	Country	Phone	Email
	Hansen							
	Knox Brown & Laura Hansen	1775 N. Highland Road	Pittsburgh	PA	15241	USA	(412) 833-9299	wbupgh@aol.com
	Terry & Sandra Gerhart	60 Shillington Road	Sinking Spring	PA	19608	USA	(610) 670-5508	gerhartsat@aol.com
	Knox Brown & Laura Hansen	12019 Perry Highway Rte. #19	Wexford	PA	15090	USA	(724) 935-0051	wbuwex@hotmail.com
RI	Richard & Jennifer Del Sesto	1000 Bald Hill Road	Warwick	RI	02886	USA	(401) 826-0606	wbuwarwick@yahoo.com
SC	Chris & Joann Wood	St. Andrews Shopping Center 975 Savannah Hwy	Charleston	SC	29407	USA	(843) 571-3771	wbuwood@bellsouth.net
	Jim & Jackie Kelly	4711 Forest Drive, Ste. 10	Columbia	SC	29206	USA	(803) 782-5700	Jkcolumbia@aol.com
	Diane & Brian Welte	The Village at Sandhill 130-3 Forum Dr	Columbia	SC	29229	USA	(803) 736-4810	wbucolumbia@gmail.com
	Abbie Pressley & Melanie Moore	626 Congaree Rd. Congaree Center #4	Greenville	SC	29607	USA	(864) 234-2150	wildbirdsunlimited@charter.net
	Virginia Culter	Festival Center at Indigo Park 45 Pembroke Dr, Ste 130	Hilton Head Island	SC	29926	USA	(843) 681-4461	wildbirds@hargray.com
	Haskell & Judy Lamb	1085 Lake Murray Blvd	Irmo	SC	29063	USA	(803) 781-3480	JHL-birds@att.net
	Gerry & Sandra Carter	435 Columbia Ave.	Lexington	SC	29072	USA	(803) 951-2070	wbulex@yahoo.com
	Danielle & Mark Motley	Moultrie Plaza 624 Coleman Blvd	Mt. Pleasant	SC	29464	USA	(843) 216-8800	wbumtpleasant@yahoo.com
	Lauren Mobley	2734 Celanese Road	Rock Hill	SC	29732	USA	(803) 981-9282	wbu433@gmail.com
	Teresa McLeod	468 E. Main St.	Spartanburg	SC	29302	USA	(864) 585-0409	wbu.spar@gmail.com
TN	Diane Whitman	6025 E. Brainerd Road, Ste102	Chattanooga	TN	37421	USA	(423) 892-3816	lovhummer@comcast.net
	Marcia & Pam Neiman	Battlewood Shopping Center 2176 Hillsboro Rd, Ste 110	Franklin	TN	37064	USA	(615) 591-6962	MaNature2@aol.com
	Pam & Marcia Neiman	806 Meadow Lark Lane	Goodlettsville	TN	37072	USA	(615) 859-7597	wbugville@bellsouth.net
	Nick Brown	5929 Hixson Pike, Shop #100	Hixson	TN	37343	USA	(423) 847-1120	wbuhixson@epbfi.com
	Nancy Harless	7240 Kingston Pike, Ste. 164	Knoxville	TN	37919	USA	(865) 450-8858	wbuknoxtn@gmail.com
	Ben & Debbie Bruce	704 S. Mendenhall	Memphis	TN	38117	USA	(901) 681-9837	wildbirdsultd@bellsouth.net
	Marcia & Pam Neiman	2813 Bransford Avenue	Nashville	TN	37204	USA	(615) 385-2426	MaNature2@aol.com
TX	Michael and Peggy Parson	Coming Soon	Arlington	TX	76012	USA	(817) 692-6681	Mparson12@ymail.com
	Rick & Kelle Stults	Westwoods Shopping Center 3267 Bee Caves Rd, Ste 121	Austin	TX	78746	USA	(512) 328-9453	rstults@austin.rr.com
	Chris Taylor	14010 US 183 N., Ste. 515	Austin	TX	78717	USA	(512) 335-1700	wbuaustin@gmail.com
	Deborah Meche	3939 Dowlen Rd. #7	Beaumont	TX	77706	USA	(409) 347-3500	iforeman@sbcglobal.net

State	Franchisee	Address	City	State	Zip	Country	Phone	Email
	Mario & Laura Burrull	Wood Ridge Plaza 27590 I-45 North	Conroe	TX	77385	USA	(281) 298-7900	tolin8@aol.com
	David & Kim Hurt	4719 West Lovers Lane	Dallas	TX	75209	USA	(214) 891-9793	dallasbirdman@gmail.com
	Ron & Diane Mills	6333 E. Mockingbird Ln., Suite 101	Dallas	TX	75214	USA	(214) 821-7400	wbuofeastdallas@sbcglobal.net
	Charlene & Stephen Ryan	2704 Cross Timbers Road Suite #118	Flower Mound	TX	75028	USA	(972) 874-1111	flowermoundbirds@gmail.com
	Glenn & Glenda Forgan	14032 Memorial Dr.	Houston	TX	77079	USA	(281) 293-0959	wbu226@sbcglobal.net
	Mario & Laura Burrull	5315 C. FM 1960 West	Houston	TX	77069	USA	(281) 444-1777	tolin8@aol.com
	Linda & Kevin Pillow	855 Junction Highway	Kerrville	TX	78028	USA	(830) 895-7393	gotseed@windstream.net
	Bill Svelan	14602 Huebner Rd., Suite 114	San Antonio	TX	78230	USA	(210) 479-2473	wbu.sanantonio@yahoo.com
	Denise & Jeff Weaver	3820 FM3009, Ste. 152	Schertz	TX	78154	USA	(210) 566-8808	wildbirdstx@aol.com
	Mel & Pat Grider	1507 Wooded Acres	Waco	TX	76710	USA	(254) 741-9630	wildbirds@grandecom.net
	Katherine Smith	4940 Seymour Highway	Wichita Falls	TX	76310	USA	(940) 692-7100	ksmith325@yahoo.com
VA	Michael Zuiker	2437 N. Harrison Street	Arlington	VA	22207	USA	(703) 241-3988	wildbirdmez1969@gmail.com
	Judith & John Lane	1510 Seminole Trail Shoppers World North	Charlottesville	VA	22901	USA	(434) 973-5850	cviliewbu@embarqmail.com
	Chuck & Donna Burnett	Greenbrier Marketctr., Ste 570 1244 Greenbrier Parkway	Chesapeake	VA	23320	USA	(757) 436-4472	WBUVaBeach@aol.com
	Bruce & Meredith Bass	10921 A W. Broad St.	Glen Allen	VA	23060	USA	(804) 934-9200	wburichmond@gmail.com
	Bruce & Meredith Bass	9778 Midlothian Turnpike	Richmond	VA	23235	USA	(804) 323-0353	wburichmond@gmail.com
	Chuck & Donna Burnett	620 Hilltop West Shopping Ctr.	Virginia Beach	VA	23451	USA	(757) 422-3215	WBUVaBeach@aol.com
	George & Valerie Copping	Monticello Market Place 4640—11B Monticello Ave	Williamsburg	VA	23188	USA	(757) 253-0873	cvalerieanne@cs.com
	Bruce & Dolores Johnson	3103 Valley Avenue, Ste. 110	Winchester	VA	22601	USA	(540) 722-9407	wbuwinchester@verizon.net
	Gregory Millslagle	Village Shops at Kiln Creek 209 Village Ave, Ste A	Yorktown	VA	23693	USA	(757) 875-1936	wbuphotos@gmill.hrcoxmail.com
WA	Andy Waters, Patricia Toth & Rhonda Ham	15858 First Avenue South #106	Burien	WA	98148	USA	(206) 241-3201	wbussea@wbuburien.com
	Linda & Joel Mooney	PO Box 366 9307 State Route 525	Clinton	WA	98236	USA	(360) 341-1404	wbu@whidbey.com
	Paul & Lori Clark	27177 185 th Avenue SE. Ste. D109	Covington	WA	98042	USA	(253) 639-6378	cedar2greenbirds@comcast.net
	Michele & Pat McAllister	4821 Evergreen Way	Everett	WA	98203	USA	(425) 252-2220	wbueverett@hotmail.com
	Marc & Christie Lassen	275953 Highway 101	Gardiner	WA	98382	USA	(360) 797-7100	marcl2377@msn.com
	James & Suzanne Ullrich	3120 1/2 Harborview DR	Gig Harbor	WA	98335	USA	(253) 851-2575	jimullrich@gmail.com

State	Franchisee	Address	City	State	Zip	Country	Phone	Email
	Melanie Perry	Coming Soon	Kitsap Peninsula	WA		USA		perrymel1943@gmail.com
	Greg & Eloise Armstrong	17171 Bothell Way NE, #A007	Lake Forest Park	WA	98155	USA	(206) 367-1950	wbulakefpk@hotmail.com
	Leann Jacobson	19915 State Rt. 2	Monroe	WA	98272	USA	(360) 863-9173	monroewbu@netscape.net
	Bob & Katie Gundlach	Cooper Point Mktpl, Ste 304 1200 Cooper Point Rd SW	Olympia	WA	98502	USA	(360) 352-5458	wbuolywa@hotmail.com
	Greg & Kecia Cole	4621 S. Meridian Street Suite 825	Puyallup	WA	98373	USA	(253) 845-5434	wbu.puyallup@gmail.com
	Diane Drisch	15155 NE 24th St.	Redmond	WA	98052	USA	(425) 747-8908	ddrisch@aol.com
WI	Larry & Carol Gjerseth, Chris Trollinger & Debi Hornburg	19555 W. Bluemound Road #4	Brookfield	WI	53045	USA	(262) 789-8226	wbubrookfieldwi@gmail.com
	Debbi Triplett	3173 Golf Road	Delafield	WI	53018	USA	(262) 646-4128	wbudelafield@hotmail.com
	Marty & Mary Wacha	3000 Milton Avenue #102	Janesville	WI	53545	USA	(608) 758-2565	wbu@wildbirdsjanestown.com
	Karen & Gaylord Perry	4326 Mormon Coulee Road	La Crosse	WI	54601	USA	(608) 781-5088	wildbirds@centurytel.net
	Dan & Mary Pat Panetti	11004 N. Port Washington Rd.	Mequon	WI	53092	USA	(262) 241-8483	dpanetti@wi.rr.com
	Bob & Janet Ross	8402 Old Sauk Road	Middleton	WI	53562	USA	(608) 664-1414	wbumadison@gmail.com
	Jackie Crivello	4454 S. 108th Street	Milwaukee	WI	53228	USA	(414) 529-4644	aspenglow22@aol.com
	Lori & Rocky Schubring	4121 Rib Mountain Drive	Wausau	WI	54401	USA	(715) 298-3140	wbuwausau@gmail.com
<u>CANADA</u>								
AB	Janis Chapman & David Cleary	12204 107th Avenue N.W.	Edmonton	AB	T5M 4A8	Canada	(587) 521-2473	wbuedmonton@gmail.com
BC	Cliff & Sherry Jury	#13-33324 South Fraser Way	Abbotsford	BC	V2S 2B4	Canada	(604) 852-1960	cwjury@shaw.ca
	Cliff & Sherry Jury	8810-C Young Road	Chilliwack	BC	V2P 4P5	Canada	(604) 792-1239	cwjury@shaw.ca
	Bruce & Janice Hutchison	#7 - 8590 200th Street	Langley	BC	V2Y 2B9	Canada	(604) 882-2020	wbulangley@shawbiz.ca
	John & Wendy Morton	1190 Marine Drive	North Vancouver	BC	V7P 1S8	Canada	(604) 988-2121	mortonjw@telus.net
	Mary-Lee Steele & Cathy Steele	2421 King George Highway	Surrey	BC	V4P 1H8	Canada	(604) 536-4011	wbu109@shaw.ca
	John & Wendy Morton	1302 W. Broadway (at Birch)	Vancouver	BC	V6H 1H2	Canada	(604) 736-2676	jmorton@telus.net
	Don Wuest & Alanna Goebel	3631 Shelbourne Street	Victoria	BC	V8P 4H1	Canada	(250) 595-3595	wbuvictoria@shaw.ca
MB	Richard & Jennifer Gobeil	Unit 45 11 Reenders Drive	Winnipeg	MB	R2C 5K5	Canada	(204) 667-2161	wildbird@mts.net
ON	Steve Martyn, Dianne Seaward-Martyn & Kristen Martyn	515 Bryne Drive, Unit B	Barrie	ON	L4N 9P7	Canada	(705) 726-7600	dianne.wbubarrie@rogers.com, steve.wbubarrie@rogers.com and kristen.martyn@gmail.com

State	Franchisee	Address	City	State	Zip	Country	Phone	Email
	Dave & Eleanor Wood	3350 Fairview St.	Burlington	ON	L7N 3L5	Canada	(905) 634-7700	el.wood@cogeco.ca
	Paul Grant & Val Wyatt	951 Gordon Street	Guelph	ON	N1G 4S1	Canada	(519) 821-2473	wellbirds@bellnet.ca
	Norm & Marilyn Morton	502 Springbank Drive	London	ON	N6J 1G8	Canada	(519) 657-0745	wbu-london@pobox.com
	Liz Evans & Dave Weston	16655 Yonge Street, Unit #2	Newmarket	ON	L3X 1V6	Canada	(905) 868-9696	wildbirds@bellnet.ca
	Eric & Margo Garrison	Blue Heron Mall 1500 Bank Street	Ottawa	ON	K1H 7Z1	Canada	(613) 521-7333	wbu@bellnet.ca
	Debbie & Andy Neale	Unit 4 - 7960 Yonge Street	Thornhill	ON	L4J 1W1	Canada	(905) 709-3775	feathered_friendship@bellnet.ca
	Jim & Lynda Mackiewicz	5468 Dundas Street West	Toronto	ON	M9B 6E3	Canada	(416) 233-3558	wildbirdsunlimited@rogers.com
SK	Keith & Denise Giroux	Coming Soon	Saskatoon	SK	S7H 0V7	Canada	(306) 955-2473	wildbirds@sasktel.com

**Franchise Agreements Signed
But Not Yet Operational as of December 31, 2012**

<u>State/Province</u>	<u>Franchisee</u>	<u>Store Location</u>	<u>City</u>	<u>State/Province</u>	<u>Zip/Postal Code</u>	<u>Country</u>	<u>Phone</u>
AZ	Josh & Alicia Horsman	7001 N Scottsdale Road	Scottsdale	AZ	85253	USA	(480) 459-1604
CA	Richard Armerding & Catherine Bourne	Thousand Oaks, CA	Thousand Oaks	CA	91320	USA	(805) 499-1620
MD	Cindy & Bob Turner	3491 Merchant Boulevard, Suite 104	Abingdon	MD	21009	USA	(410) 258-3102
NY	Chris Keelty	950 County Rt. 64, Suite 600	Elmira	NY	14903	USA	(607) 739-8157
	Scott Gunther	Rockland County, NY	West Nyack	NY	10994	USA	(201) 599-0099
OR	Barbara & Dan Gleason and Becky Uhler	Eugene, OR	Eugene	OR	97405	USA	(541) 345-3974
TX	Michael and Peggy Parson	1660 W. Randol Mill Road	Arlington	TX	76012	USA	(817) 692-6681
WA	Melanie Perry	Kitsap Peninsula, WA	Mt. Vernon	WA	98273	USA	(360) 808-0155
SK	Keith & Denise Giroux	330-A 2600 8th Street East	Saskatoon	SK	T5M 4A8	Canada	(306) 955-2473

[Intentionally left blank.]

**Franchisees That Ceased to do Business Under a Franchise Agreement
or Had an Outlet Terminated, Cancelled, or Not Renewed During our Last Fiscal Year,
Or Who Have Not Communicated With WBU Within 10 Weeks of the Issuance Date**

State	Franchisee	Store Location	City	State	Zip	Country	Phone	Reason for Leaving the System
AL	Vivian & Dave Helton	6345-C Airport Blvd.	Mobile	AL	35802	USA	(251) 656-5894	Transferred to New Owner
CO	Bob and Vicki Sanderson	2402 17th Street	Greeley	CO	80634	USA	(970) 352-2590	Mutual Termination
GA	Gary, Janie & Harlan Smith	21 Pier Road	Jekyll Island	GA	31527	USA	(912) 635-2081	Mutual Termination
IN	Mary & Mike Lipp	4205 Calumet Avenue	Valparaiso	IN	46383	USA	(219) 462-3146	Transferred to New Owner
MA	Bob & Donna Wagner	386 Columbia Road Route #53	Hanover	MA	02339	USA	(781) 447-5014	Transferred to New Owner
MI	David & Sheryl Mitchell	2208 S. Main Street	Ann Arbor	MI	48103	USA	(586) 212-8791	Transferred to New Owner
NY	Dan & Anne Kenlon	24 E. Market St.	Formerly Corning now Elmira	NY	14830	USA	(607) 973-2111	Transferred to New Owner
PA	Karen & Craig Yarrish	Dallas Shopping Center Memorial Hwy	Dallas	PA	18612	USA	(570) 696-4119	Transferred to New Owner
RI	Leonard Gross	1000 Bald Hill Road	Warwick	RI	02886	USA	(617) 799-3835	Transferred to New Owner
TX	Eddie & Jo Vanzant	14010 US 183 N., Ste. 515	Austin	TX	78717	USA	(512) 529-7331	Transferred to New Owner
WA	Ruth Pagel	Cooper Point Mktp, Ste 304 1200 Cooper Point Rd SW	Olympia	WA	98502	USA	(360) 352-8559	Transferred to New Owner

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

Exhibit G

FINANCIAL STATEMENTS



FINANCIAL STATEMENTS
AND
INDEPENDENT AUDITORS' REPORT

December 31, 2012, 2011 and 2010

WILD BIRDS UNLIMITED, INC.

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Independent Auditors' Report

Board of Directors and Stockholder
Wild Birds Unlimited, Inc.

We have audited the accompanying financial statements of Wild Birds Unlimited, Inc., which comprise the balance sheets as of December 31, 2012, 2011, and 2010, and the related statements of income and retained earnings and cash flows for the years then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

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

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditors consider internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Wild Birds Unlimited, Inc. as of December 31, 2012, 2011, and 2010, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States.

Katz, Saper & Miller, LLP

Indianapolis, Indiana
February 11, 2013

WILD BIRDS UNLIMITED, INC.
BALANCE SHEETS
December 31, 2012, 2011 and 2010

ASSETS

	2012	2011	2010
CURRENT ASSETS			
Cash	\$ 662,646	\$ 450,564	\$ 464,537
Accounts receivable, less allowance for doubtful accounts of \$65,000 in 2012, 2011 and 2010	760,801	723,879	688,114
Notes receivable - current	21,885	24,834	25,709
Other current assets	73,369	73,609	86,293
Total Current Assets	<u>1,518,701</u>	<u>1,272,886</u>	<u>1,264,653</u>
OTHER ASSETS			
Notes receivable - long term	30,967	20,555	36,460
Deferred franchise fee expenses, net			9,564
Property and equipment, net	199,475	46,853	43,181
Total Other Assets	<u>230,442</u>	<u>67,408</u>	<u>89,205</u>
TOTAL ASSETS	<u>\$1,749,143</u>	<u>\$1,340,294</u>	<u>\$1,353,858</u>

LIABILITIES AND STOCKHOLDER'S EQUITY

CURRENT LIABILITIES			
Accounts payable	\$ 11,972	\$ 20,099	\$ 26,445
Other accrued liabilities	240,764	197,932	201,259
Deferred franchise fee income, net	31,023	4,319	
Total Current Liabilities	<u>283,759</u>	<u>222,350</u>	<u>227,704</u>
STOCKHOLDER'S EQUITY			
Common stock, without par value; 1,000 shares authorized, 100 shares issued and outstanding	3,000	3,000	3,000
Additional paid-in capital	395,169	395,169	395,169
Retained earnings	1,067,215	719,775	727,985
Total Stockholder's Equity	<u>1,465,384</u>	<u>1,117,944</u>	<u>1,126,154</u>
TOTAL LIABILITIES AND STOCKHOLDER'S EQUITY	<u>\$1,749,143</u>	<u>\$1,340,294</u>	<u>\$1,353,858</u>

See accompanying notes.

WILD BIRDS UNLIMITED, INC.

STATEMENTS OF INCOME AND RETAINED EARNINGS
Years Ended December 31, 2012, 2011 and 2010

	2012	2011	2010
ROYALTY AND FRANCHISE REVENUE	\$ 6,397,801	\$ 6,137,099	\$ 5,760,724
OPERATING EXPENSES	<u>4,658,575</u>	<u>4,495,620</u>	<u>4,137,816</u>
Income from Operations	1,739,226	1,641,479	1,622,908
INTEREST INCOME	<u>2,033</u>	<u>2,379</u>	<u>2,074</u>
NET INCOME	1,741,259	1,643,858	1,624,982
DISTRIBUTIONS TO STOCKHOLDER	(1,393,819)	(1,652,068)	(1,488,089)
RETAINED EARNINGS			
Beginning of Year	<u>719,775</u>	<u>727,985</u>	<u>591,092</u>
End of Year	<u>\$ 1,067,215</u>	<u>\$ 719,775</u>	<u>\$ 727,985</u>

See accompanying notes.

WILD BIRDS UNLIMITED, INC.
STATEMENTS OF CASH FLOWS
Years Ended December 31, 2012, 2011 and 2010

	2012	2011	2010
OPERATING ACTIVITIES			
Net income	\$ 1,741,259	\$ 1,643,858	\$ 1,624,982
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation of property and equipment	41,580	23,305	26,140
Loss on sale of equipment	4,184	1,619	
Change in allowance for doubtful accounts			(35,000)
Changes in operating assets and liabilities:			
Accounts receivable	(65,676)	(45,335)	(17,936)
Other current assets	240	12,684	(27,526)
Deferred franchise fee income, net	26,704	13,883	(5,716)
Accounts payable	(8,127)	(6,346)	(10,120)
Other accrued liabilities	(54,268)	(3,327)	45,353
Net Cash Provided by Operating Activities	<u>1,685,896</u>	<u>1,640,341</u>	<u>1,600,177</u>
INVESTING ACTIVITIES			
Purchases of property and equipment	(101,766)	(29,016)	(17,637)
Proceeds from sales of equipment	480	420	
(Increase) decrease in notes receivable	21,291	26,350	(10,189)
Net Cash Used by Investing Activities	<u>(79,995)</u>	<u>(2,246)</u>	<u>(27,826)</u>
FINANCING ACTIVITIES			
Cash distributions to stockholder	(1,393,819)	(1,652,068)	(1,488,089)
Net Cash Used by Financing Activities	<u>(1,393,819)</u>	<u>(1,652,068)</u>	<u>(1,488,089)</u>
NET INCREASE (DECREASE) IN CASH	212,082	(13,973)	84,262
CASH			
Beginning of Year	<u>450,564</u>	<u>464,537</u>	<u>380,275</u>
End of Year	<u>\$ 662,646</u>	<u>\$ 450,564</u>	<u>\$ 464,537</u>
SUPPLEMENTAL DISCLOSURES			
Noncash investing activities:			
Accounts receivable reclassified to notes receivable	\$ 28,754	\$ 9,570	\$ 22,833
Leasehold improvements acquired included in other accrued liabilities	97,100		

See accompanying notes.

WILD BIRDS UNLIMITED, INC.

NOTES TO FINANCIAL STATEMENTS December 31, 2012, 2011 and 2010

NOTE 1 - ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Wild Birds Unlimited, Inc. (the Company) is based in Carmel, Indiana and sells Wild Birds Unlimited franchise rights and provides certain services to retail bird feeding and nature related stores throughout the United States and Canada. Franchisees pay an initial fee for a ten-year franchise right, and a monthly royalty calculated on a percentage of sales.

Estimates: Management uses estimates and assumptions in preparing financial statements in accordance with accounting principles generally accepted in the United States. Those estimates and assumptions affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and the reported revenues and expenses. Actual results could vary from those estimates.

Cash: The Company maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses in such accounts.

Receivables and Credit Policies: Accounts receivable are uncollateralized customer obligations due under normal trade terms requiring payment by the 10th day of the month following the royalty period covered. Late fees are assessed at management's discretion on overdue payments. Notes receivable, which are also uncollateralized, are stated at the unpaid principal balance and represent franchisee accounts receivable that have been converted from normal trade receivables. Notes receivable entered into from 2009 to 2012 accrue interest at the prime rate plus 2% (5.25% at December 31, 2012). Notes receivable entered into prior to 2009 accrue interest at rates ranging from 6% to 7.25%. Interest is recognized as income when received.

Payments of accounts receivable are allocated to the specific period identified by franchisees with their monthly royalty reports or, if unspecified, are applied to the earliest unpaid amount. Payments of notes receivable are allocated first to unpaid interest with the remainder to the outstanding principal balance.

The carrying amount of accounts receivable is reduced by an allowance that reflects management's best estimate of the amounts that will not be collected. Management individually reviews all accounts and notes receivable balances and, based on an assessment of current creditworthiness, estimates the portion, if any, of the balances that will not be collected.

Inventories are stated at the lower of cost, as determined by the average cost method, or market.

Property and Equipment are recorded at cost and are depreciated using primarily accelerated methods over the estimated useful lives of the respective assets. Leasehold improvements are amortized over the shorter of the estimated useful lives of the respective assets or the term of the lease. Amortization of leasehold improvements is included in depreciation expense. The Company's policy is to capitalize any item over \$600.

Franchise Revenue: Revenue from the sale of individual franchises is recognized when substantially all significant services to be provided by the Company have been performed. A continuing monthly royalty fee, based upon a percentage of franchisee revenue, is recognized as revenue by the Company in the same month in which the franchisee records the related revenue.

NOTE 1 - ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Advertising Costs are expensed in the year incurred and totaled \$23,696 for 2012, \$13,243 for 2011 and \$21,527 for 2010. The Company collects advertising fees from its franchisees to be used exclusively for national advertising campaigns. These fees are not considered revenue of the Company and are transferred weekly into segregated cash accounts.

Income Taxes: The Company, with the consent of its stockholder, has elected under the U.S. Internal Revenue Code to be taxed as an S Corporation. The stockholder of an S Corporation is directly taxed on the Company's taxable income. This election is also valid for the state of Indiana and other states in which the Company files tax returns. Therefore, no provision or liability for income taxes has been included in the financial statements. Certain specific deductions and credits flow through the Company to its stockholder.

The Company files income tax returns in the U.S. federal jurisdiction and various state jurisdictions. The Company is no longer subject to U.S. federal and state income tax examinations by tax authorities for years before 2009. The Company is not required to file a tax return in Canada; however, Canadian franchisees remit a 10% tax on royalty payments to the Canadian taxing authority.

Financial Instruments: The Company's financial instruments include cash, accounts and notes receivable, and accounts payable. All financial instruments are carried at cost, which approximates their fair value.

Subsequent Events: The Company has evaluated the financial statements for subsequent events occurring through February 11, 2013, the date the financial statements were available to be issued.

NOTE 2 - PROPERTY AND EQUIPMENT

Property and equipment consisted of the following as of December 31, 2012, 2011 and 2010:

	2012	2011	2010
Leasehold improvements	\$ 99,988	\$ 72,385	\$ 72,385
Furniture and equipment	<u>318,395</u>	<u>349,866</u>	<u>497,437</u>
	418,383	422,251	569,822
Less: Accumulated depreciation	<u>(218,908)</u>	<u>(375,398)</u>	<u>(526,641)</u>
Total Property and Equipment	<u>\$ 199,475</u>	<u>\$ 46,853</u>	<u>\$ 43,181</u>

NOTE 3 - DEBT AND CREDIT AGREEMENTS

The Company has a line of credit for short-term bank borrowings of up to \$400,000 with interest computed at the Bank's prime lending rate plus .25% (3.5% at December 31, 2012). Such borrowings are secured by substantially all of the Company's assets and are payable on demand. The Company had no line of credit borrowings outstanding at December 31, 2012, 2011 and 2010.

NOTE 4 - OPERATING LEASE

The Company leases its offices under a long-term operating lease that includes scheduled rent increases and requires the Company to share in common area expenses and real estate taxes. The lease commenced on August 15, 2012 and expires on January 31, 2020. Future minimum rental payments required by this lease as of December 31, 2012, were as follows:

Payable In	Rental Payments
2013	\$ 176,294
2014	179,660
2015	183,026
2016	186,392
2017	189,758
Thereafter	<u>404,623</u>
Total	<u>\$1,319,753</u>

Expenses relating to this lease were \$118,778 in 2012, \$178,398 in 2011 and \$177,245 in 2010.

NOTE 5 - OPERATING FRANCHISE ACTIVITY

Following is a summary of the changes in the number of operating Wild Birds Unlimited franchises during each of the years in the three-year period ended December 31, 2012:

	2012	2011	2010
Operating franchises at beginning of year	275	272	272
New franchises opened during the year	6	8	7
Franchises closed during the year	(2)	(4)	(7)
Franchises ceasing operations during the year	<u>0</u>	<u>(1)</u>	<u>0</u>
Operating franchises at end of year	<u>279</u>	<u>275</u>	<u>272</u>

NOTE 6 - EMPLOYEE BENEFIT PLAN

The Company sponsors a defined contribution 401(k) retirement plan covering all of its employees who meet eligibility requirements. Plan participants may elect to contribute a percentage of their annual compensation to the Plan. The Company matches 100% of participant contributions up to 3% of their annual compensation. The Company may also elect to contribute a discretionary profit-sharing component. The Company made contributions to the Plan of \$60,662 in 2012, \$53,585 in 2011 and \$52,835 in 2010.

NOTE 7 - DEFERRED FRANCHISE FEES

When an individual Wild Birds Unlimited franchise is sold, the Company agrees to provide certain services to the franchisee. Generally, these services include assistance in site selection, training personnel, and retail and marketing management.

Revenue from sales of franchises is being recognized when substantially all significant services have been provided by the Company. At December 31, 2012, 2011 and 2010, the amounts of deferred revenue and related costs of such franchise sales were:

	2012	2011	2010
Deferred revenue	\$113,500	\$46,000	\$28,000
Deferred costs	<u>82,477</u>	<u>41,681</u>	<u>37,564</u>
Net Deferred Franchise Fee (Income) Expenses	<u>\$ (31,023)</u>	<u>\$ (4,319)</u>	<u>\$ 9,564</u>

Exhibit H-1

**CHECKLIST OF MUTUAL UNDERSTANDING
(NEW FRANCHISEE)**

WILD BIRDS UNLIMITED, INC.

*CHECKLIST OF MUTUAL UNDERSTANDING

We want you to be completely comfortable with your decision to purchase a franchise from Wild Birds Unlimited, Inc. (WBU). This checklist will help you review the key provisions of our Agreement and the obligations that you will undertake when you join our system. Please read this list thoroughly and if you are uncertain about any of these items, contact us immediately. Please check off each of the boxes indicating that you read and understand each of the points. Please initial the Decision Making Matrix according to your operation plan. Please sign this checklist and return it to us with your signed Franchise Agreements.

1) Disclosure Statements

- I acknowledge that I received the Wild Birds Unlimited, Inc. Franchise Disclosure Document with all exhibits (FDD) at least 14 calendar days before I signed any agreement or paid WBU any money. If I am a resident of Iowa, New York, Oklahoma or Rhode Island, I acknowledge that I received the FDD at the earlier of the first personal meeting or at least 10 business days before the execution of any franchise or other agreement or payment of any consideration that relates to the franchise relationship. If I am a resident of Michigan, Oregon, Washington or Wisconsin, I acknowledge that I received the FDD at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.
- I have executed and returned the Acknowledgment of Receipt for the FDD which shows the actual date that I received it.
- On the Acknowledgement of Receipt for the FDD, I identified Paul Pickett as the only franchise seller involved in the franchise sales process. To the extent that one or more additional franchise seller was involved in the franchise sales process, the name, principal business address and telephone number of each such seller is:

(Write "N/A" on the above line if there are no additional franchise sellers. A "franchise seller" means a person that offers for sale, sells or arranges for the sale of a franchise, including the franchisor and its employees, representatives, agents, subfranchisors and third-party brokers who are involved in franchise sales activities. It does not include existing franchisees who sell only their own outlet and who are not otherwise engaged in franchise sales on behalf of the franchisor.)
- I acknowledge that, if WBU made unilateral material changes to the WBU Franchise Agreement and/or Reservation Agreement (e.g., Exhibit A to Franchise Agreement, etc.), I received executable forms of those agreements at least seven calendar days before I signed any agreement or paid WBU any money.
- I have executed and returned the Acknowledgment of Receipt for the Reservation Agreement (if applicable) and the Franchise Agreement that shows the actual date on which I received it.
- I acknowledge that I have personally reviewed the FDD and all attached exhibits and understand all of the information contained in that document.
- I acknowledge that I have been advised to have my attorney review these documents and discuss the benefits and risks of signing the documents.

2) **Business Planning**

- I understand that the preparation of a business plan for the operation of a WILD BIRDS UNLIMITED® store is an important step in the franchisee qualification process and that I must prepare a business plan as a condition to being awarded a Wild Birds Unlimited franchise.
- I understand that the business plan demonstrates to WBU that I understand the financial aspects of this business as well as the necessity for planning. I acknowledge that WBU's review of the business plan is in no way a representation or agreement by WBU that I can achieve the results stated in the business plan.
- I understand that the WBU Franchise Development Department recommends that I obtain a line of credit to use in the operation of my WILD BIRDS UNLIMITED business. We are unable to estimate whether you will be able to obtain financing for any or all of your investment and, if so, the terms of such financing.
- I understand that the current financial crisis could have a negative impact on the specialty birdfeeding and nature-related retail establishments, the WILD BIRDS UNLIMITED franchise system and my business. I also understand that the economic crisis and current financial situation may worsen.

3) **Reservation Agreement (if applicable)**

- I understand that the Reservation Agreement is for a 6-month term and that it reserves a geographic area in which I will choose a store site. The non-refundable Reservation Fee of \$4,000 will be applied towards the Franchise Fee if a Franchise Agreement is executed.
- The reserved area described in the Reservation Agreement may not be the same as the Designated Territory granted under the Franchise Agreement.

4) **Site Selection and Lease Negotiations Process**

- I understand that, after signing the Reservation Agreement, WBU will provide me with information on potential store sites and will review any data that I submit in the prescribed format. If such sites meet WBU's minimum standards, WBU will accompany me to: 1) tour the possible sites; 2) tour the market; and 3) visit competition. After WBU and I agree on a site selection, I may then initiate lease negotiations.
- I understand that customers residing in my Designated Territory may purchase WILD BIRDS UNLIMITED merchandise, arrange for merchandise delivery to their home or business, and arrange for on-site consultation services at their home or business, from my Store or from any other WILD BIRDS UNLIMITED store, including stores located in designated territories assigned to other WILD BIRDS UNLIMITED franchisees.
- Once I have received an offer to lease a site, WBU will review the lease and make recommendations for me to propose to the potential Landlord. I understand that my final store site must be approved by WBU. In addition, my lease must be approved by WBU as it must contain certain provisions required by the Franchise Agreement. I understand that I must obtain WBU's final approval of the site and lease before signing the lease.
- I understand that although WBU assists in site selection and approves the lease, I am responsible for all final decisions regarding these items. I understand that WBU's approval is designed to ensure that its minimum standards are met, but that site approval is not a guarantee that the site

will be successful. Lease approval does not indicate that it has been reviewed for legal sufficiency, and I understand that I should consult my own advisors for such a review.

5) **Franchise Agreement**

- I understand that I am purchasing the right and license to operate a WILD BIRDS UNLIMITED store according to the terms and conditions stated in the Franchise Agreement.
- I understand that the Franchise Agreement gives me the right to use the WBU trademarks, service marks, patents and operating system at the store location designated in my Franchise Agreement.
- I understand that my Franchise Agreement defines all of my rights and obligations in connection with the operation of my WILD BIRDS UNLIMITED store.
- I have read the Franchise Agreement in its entirety and have had an opportunity to discuss all questions and concerns with WBU and my business and legal advisors and all questions have been answered to my satisfaction.
- I understand this is a 10-year agreement with subsequent renewal terms of 5 year periods.
- Except if I qualify for the Vetfran discount, I understand that there is a non-refundable franchise fee of \$18,000 which is due when the Franchise Agreement is signed. I will be granted a Designated Territory within which WBU cannot locate another WILD BIRDS UNLIMITED store as long as I comply with the terms of the Franchise Agreement.
- I understand that in addition to the franchise fee, I will be required to pay a non-refundable \$2,500 training fee before attending my initial training.
- If I am acquiring franchise rights for a new WILD BIRDS UNLIMITED franchised location, I understand that in addition to the franchise fee and training fee, I will be required to purchase various items from WBU in connection with the Daily Savings Club[®] Loyalty Program, at a cost of \$125.
- I understand that I must participate in the WILD BIRDS UNLIMITED Gift Card Program. If I purchase franchise rights to a new Store, the cost associated with this Program is \$138.

6) **Type of Business Entity Formed To Operate Store**

- I understand that it is my decision to choose the ownership form (e.g. corporation, partnership, limited liability company, etc.) under which I will operate my WILD BIRDS UNLIMITED franchise. If the franchise will have more than one owner, only those individuals who have been personally approved by WBU may own an interest in the entity that I choose to own the franchise.
- I have been fully informed about and understand all steps that I must take to obtain WBU's approval of the ownership form I have chosen. If I choose an ownership form other than a sole proprietorship, such as a corporation, partnership or limited liability company, I must certify that the legal entity meets all of WBU's requirements before the franchise may be owned by or transferred to it.
- I understand that I may not transfer my franchise to any other business entity, whether or not I own that business entity, without obtaining prior approval from WBU.

7) **Required Ongoing Fees & Royalty**

- I understand that I must pay an on-going Royalty of 4% of Gross Sales.

- I understand that Royalty payments must be received by WBU on or before the 10th of every month for the previous month's sales.
- I understand that WBU will provide me with a list of required data that must be submitted on the Monthly Sales Summary. I understand that during the term of my Franchise Agreement, this required data may change from time to time.
- I understand that I must submit my Monthly Sales Summary by the 5th of every month for the previous months' sales.
- I understand that I must pay an Annual Point of Sale Fee to WBU, currently \$240. I also understand that WBU may increase the amount of this Annual Point of Sale Fee on 30 days' prior written notice.

8) Marketing

- I understand that the Franchise Agreement requires that I spend at least 2% of annual Gross Sales on local advertising.
- I acknowledge that WBU has made no guarantees regarding the success level that may be achieved by any particular advertising or marketing campaign or activity.
- I understand that stores may be required to contribute up to 2% of annual Gross Sales to a local or regional advertising co-op. This contribution may be credited against the required expenditure for local advertising.
- I understand that I may be required to contribute up to 2% of monthly Gross Sales to a National/Regional advertising fund.
- I understand that I am currently required to contribute .5% of monthly Gross Sales to a National/Regional advertising fund up to a maximum of \$2,500.00 per year.
- I understand that I may be required to submit periodic advertising reports to WBU, including on a quarterly and monthly basis. The Quarterly Advertising Report tracks my advertising expenses for my WILD BIRDS UNLIMITED Store and will be due within 30 days after the end of each calendar quarter or when WBU requires it. The Monthly Advertising Report tracks advertising activities and efforts related to my WILD BIRDS UNLIMITED Store. The Monthly Advertising Report is due on or before the 10th day of each month and must include information pertaining to my advertising efforts during the preceding calendar month.
- I understand that WBU provides a standard Advertising/Marketing System that I must follow, and that any alterations or adjustments to the Standard Advertising/Marketing System must be approved by WBU.
- I understand that WBU owns or licenses all artwork that I am licensed to use under the Franchise Agreement. Any use of this property which is not allowed by the Franchise Agreement must be approved by WBU.
- I understand that WBU has a standard fixture requirement, and that in order to comply with the WBU Operating System, I must occasionally upgrade the fixtures and displays within my WILD BIRDS UNLIMITED store.
- I agree to provide accurate information regarding the success or failure of marketing activities when reasonably requested by WBU.

9) **Purchasing**

- I understand that WBU provides a list of core merchandise which I will be required to carry in my store if appropriate for my market.
- I understand that I will be strongly encouraged to sell all appropriate WBU proprietary products in my WILD BIRDS UNLIMITED store. Emphasis will be placed on the marketing of these products as they provide a differential advantage over other competitive retail stores.
- I understand that approved suppliers may make service fee payments to WBU to reimburse WBU for costs associated with services provided by WBU.

10) **Additional Stores**

- I understand that the awarding of one WILD BIRDS UNLIMITED franchise does not automatically make me eligible to operate any additional franchises.
- If I desire to open and operate additional stores, I must be approved in accordance with WBU's then current standards for store owners.
- If I do open additional stores, I understand that I must attend a WILD BIRDS UNLIMITED Store Training Session, but that the training fee is waived.

11) **Disclosure Of Financial Information and Estimated Initial Investment**

- I acknowledge that no information regarding financial performance of WILD BIRDS UNLIMITED stores and initial costs, other than what is stated in the FDD, has been provided to me.
- I understand that no person acting on behalf of WBU is authorized to make any representation or claim concerning existing or potential sales, profits or other financial performance of a WILD BIRDS UNLIMITED store which may be in addition to or different from the information contained in the FDD.
- I acknowledge that I did not receive or rely upon any representation whatsoever, express or implied, as to the potential revenues, profits or success of the business venture contemplated by the Franchise Agreement.

12) **Risk Factors** (Please check all boxes)

- I understand and acknowledge that owning a WILD BIRDS UNLIMITED store means that I may experience risks that are outside of my control. I acknowledge that I have been given the opportunity to discuss these risks with my business advisors and with the WILD BIRDS UNLIMITED Franchise Development Department. These Risk Factors include, but are not limited to:

- | | |
|--|--|
| <input type="checkbox"/> Retail Competition | <input type="checkbox"/> Road Construction in front of my store |
| <input type="checkbox"/> Avian Flu and other bird related diseases | <input type="checkbox"/> Birdfeeder activity is very weather dependent |
| <input type="checkbox"/> Changes in the tenant-mix of my Shopping Center | <input type="checkbox"/> Economic Downturn |
| <input type="checkbox"/> Some Communities and Condominium Associations may ban birdfeeding | |

13) Decision Maker Matrix

Attached to this checklist is a Decision Maker Matrix. This matrix is designed to assist you in designating responsibilities if there will be more than one person making decisions about the operation of your store. Each box should be initialed by the person responsible for that area of operation. When you have completed the matrix, please return a copy of this to us for our files. This process will assist you in developing an operating plan before you start making the many different decisions necessary to operate your WILD BIRDS UNLIMITED store.

_____ Signature	_____ Signature
_____ Print Name	_____ Print Name
_____ Date	_____ Date

*Such representations are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Illinois Franchise Disclosure Act or under the Maryland Franchise Registration and Disclosure Law.

	Response	<u>Initial(s)</u>
FINANCE		
Who will develop and maintain company (store) budgets?		
Who will fulfill accounting duties (internal or external source): Payables Payroll Quarterly Year-end		
Who will review financial statements? (internal or external source)		
Who will acquire and maintain a banking relationship?		
MARKETING		
Who will plan and manage Marketing budget?		
Who will manage mailing/email list? (internal or external source)		
Who will determine advertising strategy?		
Who will manage community talks/promotions and local alliances?		
Who will implement the Annual Marketing Planner recommendations for Marketing?		
Who will manage alternative sales opportunities (kiosk, booth)?		
Who will maintain competitive analysis?		
Who will manage press releases and public relations efforts?		
Who will manage online marketing / social media strategies?		
VISUAL MERCHANDISING		
Who will plan and manage Visual Merchandising budget?		

Who will plan and manage improvements of physical plant?		
Who will manage/maintain store displays?		
Who will implement the Annual Marketing Planner recommendations for Visual Merchandising?		
Who will manage store maintenance?		
PURCHASING		
Who will plan and manage Purchasing budget?		
Who will manage/maintain purchasing strategy, inventory level & assortment?		
Who will manage ordering & receiving?		
Who will manage pricing, including markdowns?		
Who will manage vendor negotiation and relationships?		
Who will implement the Annual Marketing Planner recommendations for Purchasing?		
Who will order, price and manage birdseed?		
PERSONNEL		
Who will plan and manage Personnel budget?		
Who will manage hiring/terminations and evaluations?		
Who will manage communications & training (including staff meetings)?		
Who will maintain schedules?		
Who will manage/maintain Personnel records?		

Who will manage Certified Birdfeeding Specialist Program?		
Who will manage Ten Touch Points Customer Service Training?		

CUSTOMER SERVICE

Who will manage the sales floor?		
Who will manage special orders?		
Who will resolve customer issues?		
Who will manage customer feedback and issues?		

ADMIN. MANAGEMENT

Who will maintain organization of: Back Front		
Who will manage POS system or electronic cash register?		
Who will manage backroom computer system?		
Who will manage loss prevention?		
Who will maintain supplies?		

OPERATIONS

Who will maintain communication with the Franchise Support Center?		
Who will oversee and implement the Wild Birds Unlimited Annual Consultation plan with your Business Consultant?		
Who will read the WBU News?		

Exhibit H-2

**CHECKLIST OF MUTUAL UNDERSTANDING
(RENEWAL FRANCHISEE)**

WILD BIRDS UNLIMITED, INC.

*CHECKLIST OF MUTUAL UNDERSTANDING

We want you to be completely comfortable with your decision to purchase a franchise from Wild Birds Unlimited, Inc. (WBU). This checklist will help you review the key provisions of our Agreement and the obligations that you will undertake when you join our system. Please read this list thoroughly and if you are uncertain about any of these items, contact us immediately. Please check off each of the boxes indicating that you read and understand each of the points. Please initial the Decision Making Matrix according to your operation plan. Please sign this checklist and return it to us with your signed Franchise Agreements.

1) Disclosure Statements

- I acknowledge that I received the Wild Birds Unlimited, Inc. Franchise Disclosure Document with all exhibits (FDD) at least 14 calendar days before I signed any agreement or paid WBU any money. If I am a resident of Iowa, New York, Oklahoma or Rhode Island, I acknowledge that I received the FDD at the earlier of the first personal meeting or at least 10 business days before the execution of any franchise or other agreement or payment of any consideration that relates to the franchise relationship. If I am a resident of Michigan, Oregon, Washington or Wisconsin, I acknowledge that I received the FDD at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.
- I have executed and returned the Acknowledgment of Receipt for the FDD which shows the actual date that I received it.
- On the Acknowledgement of Receipt for the FDD, I identified Paul Pickett as the only franchise seller involved in the franchise sales process. To the extent that one or more additional franchise seller was involved in the franchise sales process, the name, principal business address and telephone number of each such seller is:

(Write "N/A" on the above line if there are no additional franchise sellers. A "franchise seller" means a person that offers for sale, sells or arranges for the sale of a franchise, including the franchisor and its employees, representatives, agents, subfranchisors and third-party brokers who are involved in franchise sales activities. It does not include existing franchisees who sell only their own outlet and who are not otherwise engaged in franchise sales on behalf of the franchisor.)
- I acknowledge that, if WBU made unilateral material changes to the WBU Franchise Agreement and/or Reservation Agreement (e.g., Exhibit A to Franchise Agreement, etc.), I received executable forms of those agreements at least seven calendar days before I signed any agreement or paid WBU any money.
- I have executed and returned the Acknowledgment of Receipt for the Reservation Agreement (if applicable) and the Franchise Agreement that shows the actual date on which I received it.
- I acknowledge that I have personally reviewed the FDD and all attached exhibits and understand all of the information contained in that document.
- I acknowledge that I have been advised to have my attorney review these documents and discuss the benefits and risks of signing the documents.

2) **Business Planning**

- I understand that the preparation of an Annual Financial Forecaster for the operation of my WILD BIRDS UNLIMITED® store is recommended by the WBU Franchise Support Center.
- I understand that the Annual Financial Forecaster demonstrates to WBU that I understand the financial aspects of this business as well as the necessity for planning. I acknowledge that WBU's review of the business plan is in no way a representation or agreement by WBU that I can achieve the results stated in the business plan.
- I understand that the WBU Franchise Support Center recommends that I obtain a line of credit to use in the operation of my WILD BIRDS UNLIMITED business. We are unable to estimate whether you will be able to obtain financing for any or all of your investment and, if so, the terms of such financing.
- I understand that the current financial crisis could have a negative impact on the specialty birdfeeding and nature-related retail establishments, the WILD BIRDS UNLIMITED franchise system and my business. I also understand that the economic crisis and current financial situation may worsen.

3) **Site Selection and Lease Negotiations Process**

- I understand that if I ever want to relocate my WILD BIRDS UNLIMITED business to a new location, I must have formal approval from WBU. WBU will provide me with information on potential store sites and will review any data that I submit in the prescribed format. If such sites meet WBU's minimum standards, WBU will accompany me to: 1) tour the possible sites; 2) tour the market; and 3) visit competition. After WBU and I agree on a site selection, I may then initiate lease negotiations.
- I understand that customers residing in my Designated Territory may purchase WILD BIRDS UNLIMITED merchandise, arrange for merchandise delivery to their home or business, and arrange for on-site consultation services at their home or business, from my Store or from any other WILD BIRDS UNLIMITED store, including stores located in designated territories assigned to other WILD BIRDS UNLIMITED franchisees.
- Once I have received an offer to lease a site, WBU will review the lease and make recommendations for me to propose to the potential Landlord. I understand that my final store site must be approved by WBU. In addition, my lease must be approved by WBU as it must contain certain provisions required by the Franchise Agreement. I understand that I must obtain WBU's final approval of the site and lease before signing the lease.
- I understand that although WBU assists in site selection and approves the lease, I am responsible for all final decisions regarding these items. I understand that WBU's approval is designed to ensure that its minimum standards are met, but that site approval is not a guarantee that the site will be successful. Lease approval does not indicate that it has been reviewed for legal sufficiency, and I understand that I should consult my own advisors for such a review.

5) **Franchise Agreement**

- I understand that I am purchasing the right and license to operate a WILD BIRDS UNLIMITED store according to the terms and conditions stated in the Franchise Agreement.

- I understand that the Franchise Agreement gives me the right to use the WBU trademarks, service marks, patents and operating system at the store location designated in my Franchise Agreement.
- I understand that my Franchise Agreement defines all of my rights and obligations in connection with the operation of my WILD BIRDS UNLIMITED store.
- I have read the Franchise Agreement in its entirety and have had an opportunity to discuss all questions and concerns with WBU and my business and legal advisors and all questions have been answered to my satisfaction.
- I understand this is a 5-year agreement with subsequent renewal terms of 5 year periods.
- I will be granted a Designated Territory within which WBU cannot locate another WILD BIRDS UNLIMITED store as long as I comply with the terms of the Franchise Agreement.
- I understand that I must participate in the WILD BIRDS UNLIMITED Gift Card Program. If I purchase franchise rights to a new Store, the cost associated with this Program is \$138.

6) Type of Business Entity Formed To Operate Store

- I understand that it is my decision to choose the ownership form (e.g. corporation, partnership, limited liability company, etc.) under which I will operate my WILD BIRDS UNLIMITED franchise. If the franchise will have more than one owner, only those individuals who have been personally approved by WBU may own an interest in the entity that I choose to own the franchise.
- I have been fully informed about and understand all steps that I must take to obtain WBU's approval of the ownership form I have chosen. If I choose an ownership form other than a sole proprietorship, such as a corporation, partnership or limited liability company, I must certify that the legal entity meets all of WBU's requirements before the franchise may be owned by or transferred to it.
- I understand that I may not transfer my franchise to any other business entity, whether or not I own that business entity, without obtaining prior approval from WBU.

7) Required Ongoing Fees & Royalty

- I understand that I must pay an on-going Royalty of 4% of Gross Sales.
- I understand that Royalty payments must be received by WBU on or before the 10th of every month for the previous month's sales.
- I understand that WBU will provide me with a list of required data that must be submitted on the Monthly Sales Summary. I understand that during the term of my Franchise Agreement, this required data may change from time to time.
- I understand that I must submit my Monthly Sales Summary by the 5th of every month for the previous month's sales.
- I understand that I must pay an Annual Point of Sale Fee to WBU, currently \$240. I also understand that WBU may increase the amount of this Annual Point of Sale Fee on 30 days' prior written notice.

8) Marketing

- I understand that the Franchise Agreement requires that I spend at least 2% of annual Gross Sales on local advertising.
- I acknowledge that WBU has made no guarantees regarding the success level that may be achieved by any particular advertising or marketing campaign or activity.
- I understand that stores may be required to contribute up to 2% of annual Gross Sales to a local or regional advertising co-op. This contribution may be credited against the required expenditure for local advertising.
- I understand that I may be required to contribute up to 2% of monthly Gross Sales to a National/Regional advertising fund.
- I understand that I am currently required to contribute .5% of monthly Gross Sales to a National/Regional advertising fund up to a maximum of \$2,500.00 per year.
- I understand that I may be required to submit periodic advertising reports to WBU, including on a quarterly and monthly basis. The Quarterly Advertising Report tracks my advertising expenses for my WILD BIRDS UNLIMITED Store and will be due within 30 days after the end of each calendar quarter or when WBU requires it. The Monthly Advertising Report tracks advertising activities and efforts related to my WILD BIRDS UNLIMITED Store. The Monthly Advertising Report is due on or before the 10th day of each month and must include information pertaining to my advertising efforts during the preceding calendar month.
- I understand that WBU provides a standard Advertising/Marketing System that I must follow, and that any alterations or adjustments to the Standard Advertising/Marketing System must be approved by WBU.
- I understand that WBU owns or licenses all artwork that I am licensed to use under the Franchise Agreement. Any use of this property which is not allowed by the Franchise Agreement must be approved by WBU.
- I understand that WBU has a standard fixture requirement, and that in order to comply with the WBU Operating System, I must occasionally upgrade the fixtures and displays within my WILD BIRDS UNLIMITED store.
- I agree to provide accurate information regarding the success or failure of marketing activities when reasonably requested by WBU.

9) Purchasing

- I understand that WBU provides a list of core merchandise which I will be required to carry in my store if appropriate for my market.
- I understand that I will be strongly encouraged to sell all appropriate WBU proprietary products in my WILD BIRDS UNLIMITED store. Emphasis will be placed on the marketing of these products as they provide a differential advantage over other competitive retail stores.
- I understand that approved suppliers may make service fee payments to WBU to reimburse WBU for costs associated with services provided by WBU.

10) Additional Stores

- I understand that the awarding of one WILD BIRDS UNLIMITED franchise does not automatically make me eligible to operate any additional franchises.
- If I desire to open and operate additional stores, I must be approved in accordance with WBU's then current standards for store owners.
- If I do open additional stores, I understand that I must attend a WILD BIRDS UNLIMITED Store Training Session, but that the training fee is waived.

11) Disclosure Of Financial Information and Estimated Initial Investment

- I acknowledge that no information regarding financial performance of WILD BIRDS UNLIMITED stores and initial costs, other than what is stated in the FDD, has been provided to me.
- I understand that no person acting on behalf of WBU is authorized to make any representation or claim concerning existing or potential sales, profits or other financial performance of a WILD BIRDS UNLIMITED store which may be in addition to or different from the information contained in the FDD.
- I acknowledge that I did not receive or rely upon any representation whatsoever, express or implied, as to the potential revenues, profits or success of the business venture contemplated by the Franchise Agreement.

12) Risk Factors (Please Check All Boxes)

- I understand and acknowledge that owning a WILD BIRDS UNLIMITED store means that I may experience risks that are outside of my control. I acknowledge that I have been given the opportunity to discuss these risks with my business advisors and with the WILD BIRDS UNLIMITED Franchise Development Department. These Risk Factors include, but are not limited to:
 - Retail Competition
 - Road Construction in front of my store
 - Avian Flu and other bird related diseases
 - Birdfeeder activity is very weather dependent
 - Changes in the tenant-mix of my Shopping Center
 - Economic Downturn
 - Some Communities and Condominium Associations may ban birdfeeding

13) Decision Maker Matrix

Attached to this checklist is a Decision Maker Matrix. This matrix is designed to assist you in designating responsibilities if there will be more than one person making decisions about the operation of your store. Each box should be initialed by the person responsible for that area of operation. When you have completed the matrix, please return a copy of this to us for our files. This process will assist you in developing an operating plan before you start making the many different decisions necessary to operate your WILD BIRDS UNLIMITED store.

_____ Signature	_____ Signature
_____ Print Name	_____ Print Name
_____ Date	_____ Date

*Such representations are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Illinois Franchise Disclosure Act or under the Maryland Franchise Registration and Disclosure Law.

	Response	<u>Initial(s)</u>
FINANCE		
Who will develop and maintain company (store) budgets?		
Who will fulfill accounting duties (internal or external source): Payables Payroll Quarterly Year-end		
Who will review financial statements? (internal or external source)		
Who will acquire and maintain a banking relationship?		
MARKETING		
Who will plan and manage Marketing budget?		
Who will manage mailing/email list? (internal or external source)		
Who will determine advertising strategy?		
Who will manage community talks/promotions and local alliances?		
Who will implement the Annual Marketing Planner recommendations for Marketing?		
Who will manage alternative sales opportunities (kiosk, booth)?		
Who will maintain competitive analysis?		
Who will manage press releases and public relations efforts?		
Who will manage online marketing / social media strategies?		

VISUAL MERCHANDISING		
Who will plan and manage Visual Merchandising budget?		
Who will plan and manage improvements of physical plant?		
Who will manage/maintain store displays?		
Who will implement the Annual Marketing Planner recommendations for Visual Merchandising?		
Who will manage store maintenance?		
PURCHASING		
Who will plan and manage Purchasing budget?		
Who will manage/maintain purchasing strategy, inventory level & assortment?		
Who will manage ordering & receiving?		
Who will manage pricing, including markdowns?		
Who will manage vendor negotiation and relationships?		
Who will implement the Annual Marketing Planner recommendations for Purchasing?		
Who will order, price and manage birdseed?		
PERSONNEL		
Who will plan and manage Personnel budget?		
Who will manage hiring/terminations and evaluations?		
Who will manage communications & training (including staff		

meetings)?		
Who will maintain schedules?		
Who will manage/maintain Personnel records?		
Who will manage Certified Birdfeeding Specialist Program?		
Who will manage Ten Touch Points Customer Service Training?		

CUSTOMER SERVICE

Who will manage the sales floor?		
Who will manage special orders?		
Who will resolve customer issues?		
Who will manage customer feedback and issues?		

ADMIN. MANAGEMENT

Who will maintain organization of: Back Front		
Who will manage POS system or electronic cash register?		
Who will manage backroom computer system?		
Who will manage loss prevention?		
Who will maintain supplies?		

OPERATIONS

Who will maintain communication with the Franchise Support Center?		
Who will oversee and implement the Wild Birds Unlimited Annual Consultation plan with your Business Consultant?		
Who will read the WBU News?		

Exhibit I

Daily Savings Club[®]

Enrollment Form

**Wild Birds Unlimited® (WBU)
Daily Savings Club® Customer Loyalty Program Enrollment Form**

The following Franchise Store(s) wish(es) to enroll as a participant(s) in the WBU Daily Savings Club Customer Loyalty Program (the "Program").

As a storeowner of the following WILD BIRDS UNLIMITED franchised location(s), I have read, understand and will submit the required information contained within the "WBU Daily Savings Club Participant Guidelines" document, a copy of which is attached as "Attachment 1." I agree to abide by all the terms and conditions of the Program offered by WBU to participating franchised location(s) (as described in Attachment 1), and agree that failure to abide by all the terms and conditions in Attachment 1 may result in my store being suspended or precluded from participation in the Program. I further acknowledge and agree that failure to abide by the terms set forth in Attachment 1 shall constitute a default under the Franchise Agreement for the following Store(s).

WBU Store Address 1 _____

WBU Store Address 2 _____
(If applicable) _____

Owner's signature: _____
(if sole proprietor) *Signature* *Date*

If Partnership, Managing Partner(s):

Signature *Date*

Signature *Date*

If Corporation, the President:

Signature *Date*

Please fax or mail to:

Attn: Amy Moore
Wild Birds Unlimited Franchise Support Center
11711 N. College Avenue, Suite 146
Carmel, IN 46032

Fax: (317) 571-7110

REV 07/2007

Attachment 1

Wild Birds Unlimited®

Daily Savings Club® Participant Guidelines

The following guidelines are required of franchisee participants in the WBU Daily Savings Club Customer Loyalty Program (the "Program"). You must fill out, sign, and return the Enrollment Form to Franchisor in order to participate in the Program.

To participate in the Program, candidates must agree to complete the following:

- Read, understand and agree to use *WBU Daily Savings Club Operations Manual***
This training guide details the methods and procedures for implementing the Program.
- Read, understand and adhere to the Daily Savings Club Member Terms and Conditions**
Club Member Terms and Conditions can be found at <http://www.wbu.com/dailysavingsclub/>. Review the Terms and Conditions so that you can answer questions posed by customers regarding their participation in the Program.
- Agree to implement 100% of the Daily Savings Club member benefits. The program benefits include:**
 - \$25 annual membership fee paid by each customer who is a member of the Program
 - 15% off regular prices of all sizes of bird and wildlife food every day
 - Additional 5% off sale prices of bird and wildlife food
 - \$10 Bird Bucks Coupon with every \$200 purchased (any item purchased in the store counts towards the \$200)
 - One free gift per customer upon joining the Program
 - Customers who are interested in joining the program must complete an application indicating they accept the terms and conditions of the program (found online at <http://www.wbu.com/dailysavingsclub/>.)
 - Membership is valid only at the issuing store and is not transferable to other WBU Stores
 - Seed Storage and Frequent Seed Shopper Cards are not available to Program members
 - Purchases prior to Daily Savings Club enrollment will not apply towards discounts
 - Membership in the Program is tracked on a private list and will not be shared with any other third parties
- Agree to purchase the required supplies for the Program and submit payment to the Franchise Support Center (FSC) in a timely manner.**
The supplies for the Program include the Daily Savings Club Application, DSC Club Cards, point of purchase materials to promote the program, and software upgrades for Point of Sale Stores.

In addition to the previous Program requirements, WBU recommends that you do the following:

- Implement the recommended Daily Savings Club Marketing Plan to announce the program.**
The Daily Savings Club Marketing Plan includes an announcement of the Program in the next 3 planned monthly flyers to your customer list (size of the mailing will be determined case by case). Franchise store owners should update their store web site with the details of the program and send out a minimum of three email messages to your current list promoting the program.

- Implement the recommended merchandising plan for the program materials.**
The merchandising plan includes recommended placement of the point of purchase materials included in your program kit.
- Update and review the recommended tools and report on a monthly basis.**
Participants in the Program should review the DSC Analysis report on a monthly basis. WBU does not require that you submit this report to us on a monthly basis, but by reviewing in combination with advice from your business consultant, it can assist in the analysis of the Program for your individual Store.
- Conduct a staff meeting reviewing the details of the Program.**
A staff meeting agenda and training materials are available to assist you in preparation for the meeting. WBU suggests that all staff members should be required to attend the meeting. The intent of the staff meeting is to discuss the details of the Program, review selling techniques to assist staff in communicating the program to customers, and discussing Point of Sale or cash register operations.

FINAL NOTE: Franchisor may change, alter, modify, or discontinue the Program at any time. Further, either party (Franchisor or Franchisee) may cancel its own participation in the Program after providing 10 calendar days' written notice to the other party.

Except as noted below, Franchisee's participation in the Program may be terminated by Franchisor if, within 30 days' following franchisee's receipt of Franchisor's written notice of default, Franchisee fails to cure any default in performance under these Guidelines. A default by Franchisee in the performance of its obligations under the Program shall constitute a default under the Franchise Agreement(s) for the participating Store(s). Franchisee understands, acknowledges and agrees that should the Franchise Agreement(s) for the Store(s) become expired, cancelled, terminated or otherwise void, Franchisor may immediately terminate Franchisee's participation in the Program, effective upon receipt of Franchisor's written notice by the Franchisee.

If a Franchisee ceases participation in the Program, voluntarily or involuntarily, all Program materials must be returned to the FSC immediately and Franchisee may not offer any variation of the Program, regardless of nomenclature. Franchisee further agrees that, if requested by WBU, Franchisee will cooperate with WBU to develop a plan announcing the cancellation of the Program to customers of the applicable Store.

Exhibit J

FORM OF GENERAL RELEASE

FORM OF GENERAL RELEASE
(Subject to Change by Wild Birds Unlimited, Inc.)

For and in consideration of the Agreements and covenants described below, Wild Birds Unlimited, Inc. (“WBU”) and _____ (“Franchisee”) enter into this Release of Claims (“Agreement”).

RECITALS

- A. WBU and Franchisee entered into a WILD BIRDS UNLIMITED® Franchise Agreement dated _____, ____.
- B. [NOTE: Describe the circumstances relating to the release.]
- C. Subject to and as addressed with greater specificity in the terms and conditions set forth below, WBU and Franchisee now desire to settle any and all disputes that may exist between them relating to the Franchise Agreement.

AGREEMENTS

1. **Consideration.** [NOTE: Describe the consideration paid.]
- 2-3. [NOTE: Detail other terms and conditions of the release.]
4. **Release of Claims by WBU.** Except as noted in this Section 4, and subject to your compliance with the terms and conditions of this Agreement, including the payment of \$_____ to WBU, WBU, for itself, its predecessors, successors, assigns, affiliates, directors, officers, shareholders, and employees (collectively and individually referred to as the “Franchisor Parties”), hereby release and forever discharge Franchisee, its heirs, successors and assigns, affiliates, directors, officers and shareholders, and any other party claiming an interest through them (collectively and individually referred to as the “Franchisee Parties”) from any and all claims, debts, liabilities, demands, obligations, costs, expenses, actions and causes of action, whether known or unknown, vested or contingent, which you may now or in the future own or hold, that in any way relate to the Franchise Agreement (collectively, “Claims”), for known or unknown damages or other losses including but not limited to, any alleged violations of any deceptive or unfair trade practices laws, franchise laws, or other local, municipal, state, federal, or other laws, statutes, rules or regulations, and any alleged violations of the Franchise Agreement or any other related agreement between you and Franchisor or your affiliate and Franchisor.

The Franchisor Parties do not release the Franchisee Parties from any obligations arising by virtue of this Agreement and the Franchisee Parties’ failure to comply with those obligations. Further, the Franchisor Parties do not release the Franchisee Parties from any Claims related to Franchisee’s (i) indemnification obligations under Section ____ of the Franchise Agreement, (ii) non-disclosure obligations under Section ____ of the Franchise Agreement, and (iii) post-termination non-compete obligations under Section

___ of the Franchise Agreement, each of which remain in full force and effect and are incorporated by reference in this Agreement.

5. **Release of Claims by Franchisee.** In consideration of the other terms and conditions of this Agreement, the receipt and sufficiency of which is hereby acknowledged, the Franchisee Parties release and forever discharge the Franchisor Parties of and from any and all Claims, for known or unknown damages or other losses including but not limited to, any alleged violations of any deceptive or unfair trade practices laws, franchise laws, or other local, municipal, state, federal, or other laws, statutes, rules or regulations, and any alleged violations of the Franchise Agreement or any other related agreement between you and Franchisor or your affiliate and Franchisor.

The Franchisee Parties do not release the Franchisor Parties from any obligations arising by virtue of this Agreement and the Franchisor Parties' failure to comply with those obligations.

6. **Acknowledgement.** The releases of Claims set forth in Section 4 and Section 5 are intended by the Franchisor Parties and the Franchisee Parties (collectively, the "Parties) to be full and unconditional general releases, as that phrase is used and commonly interpreted, extending to all claims of any nature, whether or not known, expected or anticipated to exist in favor of the one of the Parties against the other Party regardless of whether any unknown, unsuspected or unanticipated claim would materially affect settlement and compromise of any matter mentioned herein. In making this voluntary express waiver, the Parties acknowledge that claims or facts in addition to or different from those which are now known to exist with respect to the matters mentioned herein may later be discovered and that it is the Parties' respective intentions to hereby fully and forever settle and release any and all matters, regardless of the possibility of later discovered claims or facts. This Release is and shall be and remain a full, complete and unconditional general release. The Parties further acknowledge and agree that no violation of this Agreement shall void the releases set forth in this Agreement.

7. **Reservation of Claims Against Non-Settling Parties.** WBU and Franchisee expressly reserve their right and claims against any non-settling persons, firms, corporations, or other entities for whatever portion or percentage their damages are found to be attributable to the wrongful conduct of said non-settling parties.

8. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties relative to the subject matter contained herein, and all prior understandings, representations and agreements made by and between the parties relative to the contents contained in this Agreement are merged into this Agreement.

9. **Voluntary Nature of Agreement.** The parties acknowledge and agree that they have entered into this Agreement voluntarily and without any coercion. The parties further represent that they have had the opportunity to consult with an attorney of their own choice, that they have read the terms of this Agreement, and that they fully understand and voluntarily accept the terms.

10. **Governing Law and Jurisdiction.** This Agreement will be construed and enforced in accordance with the law of the state of _____.

11. **Attorneys' Fees.** All rights and remedies under this Agreement shall be cumulative and none shall exclude any other right or remedy allowed by law. In the event of a breach of this Agreement that requires one of the parties to enforce the terms and conditions of this Agreement, the non-prevailing party shall pay the prevailing party's attorneys' fees and costs incurred by reason of the breach.

Dated: _____, 20__

WILD BIRDS UNLIMITED, INC.

By _____

Title _____

Dated: _____, 20__

FRANCHISEE: _____

By _____

Exhibit K

RECEIPTS

RECEIPT

This Disclosure Document summarizes certain provisions of the franchise agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

Except as noted below, if Wild Birds Unlimited, Inc. offers you a franchise, we must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale.

Iowa, New York, Oklahoma and Rhode Island law require that Wild Birds Unlimited, Inc. give you this Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of any franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

Michigan, Oregon and Wisconsin require 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 Wild Birds Unlimited, 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, D.C. 20580 and the appropriate state agency identified on Exhibit A.

The name, principal business address and telephone number of each franchise seller offering the franchise is: Paul Pickett, Vice President of Franchise Development, Wild Birds Unlimited, Inc., 11711 N. College Ave., Suite 146, Carmel, IN 46032; (317) 571-7100 and _____.

Issuance Date: February 26, 2013

See Exhibit A for our registered agents authorized to receive service of process.

I have received a Disclosure Document dated _____, 2013, that included the following Exhibits:

- A. State Agencies and Agents for Service of Process
- B. Reservation Agreement
- C. Franchise Agreement (including Appendices)
- D. Initial Franchise Fee Amendment (Additional Store)
- E. Authorization and Gift Card Participation Agreement
- F. List of Existing Franchisees and Terminated Franchisees and those who have otherwise left the System
- G. Financial Statements
- H-1 Checklist of Mutual Understanding (New Franchisee)
- H-2 Checklist of Mutual Understanding (Renewal Franchisee)
- I. Daily Savings Club® Enrollment Form
- J. Form of General Release
- K. Receipts

Date	Signature	Printed Name
Date	Signature	Printed Name

Please sign this copy of the receipt, date your signature, and return it to:

Paul Pickett
Vice President of Franchise Development
Wild Birds Unlimited, Inc.
11711 N. College Ave., Suite 146
Carmel, IN 46032
Fax: (317) 208-4050