

Department of Corporations

MAR 30 2007

Sacramento Office

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PSS UNIT-San Francisco Office

MAR 30 2007



## MAUI WOWI FRANCHISING, INC.

### UNIFORM FRANCHISE OFFERING CIRCULAR

#### INFORMATION FOR PROSPECTIVE FRANCHISEES REQUIRED BY THE FEDERAL TRADE COMMISSION

Maui Wowi Franchising, Inc.  
5445 DTC Parkway, Suite 1050  
Greenwood Village, CO 80111  
(303) 781-7800  
Fax: (303) 781-2438  
[www.mauiwowi.com](http://www.mauiwowi.com)

To protect you, we've required your franchisor to give you this information. *We haven't checked it, and don't know if it's correct.* It should help you make up your mind. Study it carefully. While it includes some information about your contract, don't rely on it alone to understand your contract. Read all of your contract carefully. Buying a franchise is a complicated investment. Take your time to decide. If possible, show your contract and this information to an advisor, like a lawyer or an accountant. If you find anything you think may be wrong or anything important that's been left out, you should let us know about it. It may be against the law.

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

FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Date of Issuance: \_\_\_\_\_



## FRANCHISE OFFERING CIRCULAR

Maui Wovi Franchising, Inc.  
5445 DTC Parkway, Suite 1050  
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(303) 781-7800  
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Maui Wovi Franchising, Inc., a Colorado corporation, is offering franchises for the operation of businesses that sell MAUI WOWI® fresh Hawaiian beverages and related items including fresh fruit smoothies, bottled waters, Hawaiian coffee and related espresso beverages, a variety of Hawaiian products, and other products developed by or for Maui Wovi Franchising, Inc. Maui Wovi products are sold from either fixed store fronts, mall locations or from portable units placed at events that occur on a periodic basis or are held in special or temporary venues.

Three separate franchises are being offered under this Offering Circular. A "Single Unit Franchise" enables you to own and operate within one fixed Retail Store, as defined in ITEM I. A "Standard Franchise" enables you to own and operate three MAUI WOWI Operating Units of any type in any combination. An "Empire Builder Franchise" enables you to own and operate 10 MAUI WOWI Operating Units of any type in any combination.

The initial franchise fee ("Initial Franchise Fee") for a Single Unit Franchise is \$27,500; for a "Standard Franchise" is \$34,500; and for an Empire Builder Franchise is \$59,500. Additionally, for each of the available types of franchise, there is a one time Hawaiian training fee of \$3,500. Depending on the type of Operating Unit you elect to operate, you must also pay a minimum of \$5,000 to \$10,000 to our Affiliate directly or through a distributor for your opening inventory. If you open a Retail Store, you must purchase certain equipment, décor and signage from us, our Affiliate, and other approved suppliers at a cost ranging from \$48,000 to \$151,000. If you open a Fixed Kiosk, you must purchase the Fixed Kiosk and necessary equipment and signage from us, our Affiliate, and other approved suppliers at a cost ranging from \$69,500 to \$96,300. Franchisees operating a Retail Store or a Fixed Kiosk must also pay our Affiliate a TurnKey Fee of \$17,500 to \$21,500, which offsets our costs in supporting your efforts to find and develop a retail store. If you elect to operate at temporary events or at special or temporary venues, you must purchase from us, our Affiliate, and other approved suppliers a Ka'anapali Cart or Event Concession Trailer and select equipment and signage at a cost ranging from \$21,390 to \$78,500.

The initial investment you make will vary mainly depending on the type of Operating Unit you choose to open first. The estimated initial investment for opening a Ka'anapali Cart or Event Concession Trailer is \$70,040 to \$199,415 (increasing to \$79,240 to \$244,415 if you operate the Ka'anapali Cart or Event Concession Trailer at Permanent Events); for opening a Fixed Kiosk or Non-Traditional Operating Unit is \$107,275 to \$372,715; and for opening an In-Line or Drive-Thru Location is \$149,000 to \$677,415. The estimated initial investment includes the Initial Franchise Fee and the other start-up costs paid to us or our Affiliate.

### Risk Factors:

1. **THE FRANCHISE AGREEMENT PERMITS THE FRANCHISEE TO ARBITRATE WITH US ONLY IN COLORADO. OUT OF STATE ARBITRATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO ARBITRATE WITH US IN COLORADO THAN IN YOUR HOME STATE.**

2. **THE FRANCHISE AGREEMENT STATES THAT COLORADO LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS. CERTAIN OTHER STATES PROHIBIT CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES CONTAINED IN FRANCHISE DOCUMENTS. SEE STATE ADDENDA IN EXHIBIT J FOR A SUMMARY OF SOME OF THESE LAWS.**

3. **THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE. SEE THE STATE ADDENDA ATTACHED AS EXHIBIT J.**

Our registered agents in certain states authorized to receive service of process are listed in Exhibit A.

Information comparing franchisors is available. Call the state administrators listed in **Exhibit A** or your public library for sources of information.

Registration of this franchise with the state does not mean that the state recommends it or has verified the information in this Offering Circular. If you learn anything in this Offering Circular is untrue, contact the Federal Trade Commission and your State or Provincial authority set forth in **Exhibit A**.

**Date of Issuance of this Offering Circular for use in: AL, AK, AZ, AR, CO, CT, DE, DC, GA, FL, ID, IA, KS, KY, LA, ME, MA, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NC, OH, OK, OR, PA, SC, TN, TX, UT, VT, WV, and WY is \_\_\_\_\_, 2007.**

**Effective Dates for States Requiring Registration:**

California:	_____
Hawaii:	_____
Illinois:	_____
Indiana:	_____
Maryland:	_____
Minnesota:	_____
New York:	_____
North Dakota:	_____
Rhode Island:	_____
South Dakota:	_____
Virginia:	_____
Washington:	_____
Wisconsin:	_____

## TABLE OF CONTENTS

ITEM	PAGE
ITEM 1. THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES .....	1
ITEM 2. BUSINESS EXPERIENCE .....	3
ITEM 3. LITIGATION .....	5
ITEM 4. BANKRUPTCY .....	6
ITEM 5. INITIAL FRANCHISE FEE .....	6
ITEM 6. OTHER FEES .....	7
ITEM 7. INITIAL INVESTMENT .....	10
ITEM 8. RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES .....	15
ITEM 9. FRANCHISEE'S OBLIGATIONS .....	17
ITEM 10. FINANCING .....	18
ITEM 11. FRANCHISOR'S OBLIGATIONS .....	18
ITEM 12. TERRITORY .....	25
ITEM 13. TRADEMARKS .....	27
ITEM 14. PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION .....	29
ITEM 15. OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS .....	29
ITEM 16. RESTRICTIONS ON WHAT FRANCHISEE MAY SELL .....	30
ITEM 17. RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION .....	30
ITEM 18. PUBLIC FIGURES .....	32
ITEM 19. EARNINGS CLAIMS .....	32
ITEM 20. LIST OF OUTLETS .....	34
ITEM 21. FINANCIAL STATEMENTS .....	36
ITEM 22. CONTRACTS .....	36
ITEM 23. RECEIPT .....	36

### EXHIBITS

- A. List of State Agencies/Agents for Service of Process
- B. Franchise Agreement with Attachments
- C. Nondisclosure and Noncompetition Agreement
- D. H-E-B Documents
  - D-1 H-E-B Addendum to Franchise Agreement
  - D-2 H-E-B Concession Agreement
- E. Financial Statements
- F. Lists of Franchisees
- G. Franchisees Who Have Left the System
- H. Statement of Franchisee
- I. Library of Operating Manuals Table of Contents
- J. State Addenda
- K. DRS and Franchise Brokers
- L. Summary of Industry Specific Laws

**ITEM 1.**  
**THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES**

**The Franchisor, Its Predecessors and Affiliates**

The Franchisor is Maui Wowi Franchising, Inc. To simplify the language in this Offering Circular, “we,” or “us,” means Maui Wowi Franchising, Inc. “You” and “your” means the person who buys the franchise and includes the operators of a franchisee entity.

We were incorporated on March 13, 2002 in Colorado and before that, existed as a Utah corporation formed on March 6, 1997 under the name Maui Wowi Marketing, Inc. On March 19, 2002, Maui Wowi Marketing, Inc. was merged into us. Our principal place of business is 5445 DTC Parkway, Suite 1050, Greenwood Village, Colorado 80111. We do not do business under any names other than Maui Wowi and Maui Wowi Franchising, Inc.

We have one affiliated company, Maui Wowi International, Inc. (“Affiliate”). Our Affiliate was incorporated on March 13, 2002 in Colorado and before that, existed as a Utah corporation formed on March 6, 1997 under the name Maui Wowi USA, Inc. On March 19, 2002, Maui Wowi USA, Inc. was merged into our Affiliate. In 1997, Maui Wowi USA, Inc. was the surviving company in a merger with Maui Wowi, Inc., a Utah corporation formed in 1982, which had, before the merger, continuously operated the MAUI WOWI® fresh fruit smoothies business. We and our Affiliate are owned by a holding company called Maui Wowi, Inc. (“Parent” or “MW”). MW was formed on March 13, 2002, and acquired all of our stock and the stock of our Affiliates on March 14, 2002. The principal business address for our Parent and our Affiliate is the same as ours.

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

**The Franchise**

We offer franchises for the operation of businesses (“MAUI WOWI Businesses” or individually, a “MAUI WOWI Business”) selling fresh fruit smoothies made from our proprietary fruit smoothie blends (“MAUI WOWI Blends”) with or without nutritional supplements, brewed Hawaiian coffee, espresso drinks, gourmet bottled waters and other approved products (collectively, “MAUI WOWI Products”), from one of our two types of proprietary mobile, self-contained units (“Ka’anapali Carts” or “Event Concession Trailers”), or from our proprietary fixed-location kiosks (“Fixed Kiosks”) or at stand alone retail stores (“Retail Stores”). Retail Stores fall under three classifications: “In-Line” stores, which are traditional store front locations, “Drive-Thru” stores, which may be stand alone or in connection with an In-Line store, or “Non-Traditional” stores, which are locations adapted to meet unique needs. Ka’anapali Carts, Event Concession Trailers, Fixed Kiosks and Retail Stores are collectively referred to in this Offering Circular as the “Operating Units,” or individually as an “Operating Unit.” The Ka’anapali Cart and Event Concession Trailer are usually operated at activities including fairs, sporting events, conventions, rodeos, festivals, trade shows, grand openings and seminars (“Events”). However, the Ka’anapali Cart and Event Concession Trailer may be operated from permanent, fixed sites located in malls, strip centers, schools, office buildings, hospitals, health clubs, drive-thrus, auditoriums, arenas, and concert and sports venues (“Permanent Sites”). The Fixed Kiosk and Retail Store are operated from Permanent Sites. You are required to obtain our written consent for each Permanent Site at which you desire to locate an Operating Unit, and for the Letter of Intent (defined in ITEM 11) and lease of any Permanent Site. (See ITEM 11.) An Operating Unit operating from a Permanent Site may not be relocated without our prior written consent.

All Operating Units are operated under our MAUI WOWI® trademark, trade names, service marks and logos (“Marks”) using our unique and proprietary system for operating the MAUI WOWI Business and related licensed methods of doing business (“System”). Our System includes our Marks, our MAUI WOWI Blends, the MAUI WOWI Products, including products that may be added to the System in the future, our proprietary specifications, methods and procedures for the preparation, marketing and sale of our fruit smoothies, Hawaiian coffee, gourmet waters, nutritional supplements, espresso drinks, and other products (collectively, “MAUI WOWI Services”), as well as our proprietary Ka’anapali Carts, Event Concession Trailers, Fixed Kiosks, and Retail Stores. You will operate the MAUI WOWI Business in accordance with the System and our proprietary Library of Operating Manuals (as defined in ITEM 8).

You will acquire the MAUI WOWI Blends, MAUI WOWI Products and certain equipment used in your MAUI WOWI Business, including, trademarked cups, shirts, and hats, custom gift cards, espresso machines, blenders, signage, décor and other equipment, as well as the Ka’anapali Cart, Event Concession Trailer, and Fixed Kiosk (collectively, “MAUI WOWI Supplies and Equipment”), through us, our Affiliate or other approved suppliers of ours.

We offer three types of MAUI WOWI unit franchises, a "Single Unit Franchise," a "Standard Franchise" and an "Empire Builder Franchise." If you acquire a Single Unit Franchise, you may operate one Retail Store. If you acquire a Standard Franchise, you may operate up to three Operating Units at Events or Permanent Sites, or any combination of both. If you acquire an Empire Builder Franchise, you may operate up to 10 Operating Units at Events or Permanent Sites, or any combination of both. Regardless of the type of franchise you acquire, you are required to pay us the initial fees discussed in ITEM 5 of this Offering Circular, sign our franchise agreement ("Franchise Agreement") and complete the Hawaiian training program and initial training program prior to operating your MAUI WOWI Business. A copy of our Franchise Agreement is attached to this Offering Circular as Exhibit B. You will also execute the appropriate Operating Unit Rider to the Franchise Agreement ("Operating Unit Rider") for each Operating Unit you open under your Franchise Agreement. The Operating Unit Riders are attached to the Franchise Agreement. If you acquire either a Standard Franchise or an Empire Builder Franchise, you will execute a separate Operating Unit Rider for each Operating Unit you operate under the same Franchise Agreement prior to you operating additional Operating Units. Also, if you acquire either a Standard Franchise or an Empire Builder Franchise and operate a Ka'anapali Cart or Event Concession Trailer, you may apply for a "right of first refusal" for additional, later Events held by the same sponsor in the same locale and for additional space in the same venue of an Event (for example, if you are operating at an Arena with one Ka'anapali Cart and the Arena has requested two additional Ka'anapali Carts for events). (See ITEM 12).

We also offer to select persons the opportunity to purchase a Director of Regional Support ("DRS") franchise. Each DRS is selected by us based on his or her performance as a franchise operator or other qualifications to serve as a DRS. The selection of a DRS and the establishment of the territory in which the DRS shall operate ("DRS Territory") are made by us in our sole discretion. A DRS is responsible for identifying potential franchise operators in the DRS Territory and providing initial training, site selection assistance and ongoing support to franchise operators located in the DRS Territory. Offers to acquire a DRS franchise are made by a separate Offering Circular. If you acquire a MAUI WOWI Business to be located in a DRS Territory, you may receive some or all of your training and ongoing support from the DRS in that DRS Territory.

### **Market and Competition**

The market for fruit smoothies, frozen smoothies, specialty coffee and coffee confections, nutritional supplements, and similar products is continuing to develop in consumer product recognition and popularity and has become highly competitive in attracting customer dollars and high profile locations. You will typically compete with other sellers of beverages and related products located in or near the MAUI WOWI Business location you select. There are many such competing companies.

### **Regulations**

In most states and local jurisdictions, there are industry specific health and other regulations that apply to businesses offering food and beverages to the general public. A summary of these regulations and laws are set forth on Exhibit L to this Offering Circular. You are solely responsible to determine what local city, county or state regulations, permits, and licenses you will need to comply with in order to operate the MAUI WOWI Business in a particular state. You may be required to modify your MAUI WOWI Operating Unit to comply with any applicable state, county or local laws or regulations, or even zoning laws. Any modifications will be at your expense. You should also familiarize yourself with federal, state or local laws of a more general nature affecting your MAUI WOWI Business. You must comply with employment, worker's compensation, insurance, corporate, taxing, licensing and similar laws and regulations.

### **Franchisor's Prior Experience**

The founders of the MAUI WOWI fresh fruit smoothies concept, Jeff N. and Jill E. Summerhays, have been using concepts similar to the System and conducting a business of the type to be operated by you continuously in Utah since 1982. The MAUI WOWI smoothie formula grew out of a perceived need for an alternative, healthy beverage. The Summerhays sell MAUI WOWI smoothies at a variety of locations in the state of Utah, such as fairs, art festivals, sports events and Permanent Sites located in convention centers, ski areas, universities and auditoriums offering indoor and outdoor activities. Mr. and Mrs. Summerhays have also sold MAUI WOWI fresh fruit smoothies in Australia. The Summerhays may be deemed predecessors of ours, and are currently franchisees of ours.

Maui Wowi Marketing, Inc. acquired the System and concepts from the Summerhays in 1997 and offered MAUI WOWI franchises from that time until it was merged into us in 2002. We have offered MAUI WOWI franchises since that time. As of the date of this Offering Circular, we have not offered for sale or sold franchises in any other line of business. However, as noted above, we also offer DRS franchises to qualified persons and businesses by way of a separate Offering

Circular. Neither our Parent nor our Affiliate have operated MAUI WOWI Businesses, sold franchises for MAUI WOWI Businesses or sold franchises in any other line of business. We do not operate any MAUI WOWI Businesses, but our Parent owned a company named Maui Wowi #101, LLC, which operates a MAUI WOWI Business. Our Parent sold Maui Wowi #101, LLC in 2006. Our Affiliate as well as other approved suppliers and distributors distribute the Ka'anapali Carts, Event Concession Trailers, Fixed Kiosks, all MAUI WOWI Products and all MAUI WOWI Supplies and Equipment, other trademarked products and select equipment that you must purchase in connection with your MAUI WOWI Business.

## **ITEM 2. BUSINESS EXPERIENCE**

### **Michael L. Haith – President, Chief Executive Officer, and Director**

Mr. Haith has served as our President, Chief Executive Officer and Director since our formation. He has also served as Chief Executive Officer and director of our Affiliate, Maui Wowi International, Inc., our former affiliate Maui Wowi Retail, Inc. (formerly Maui Wowi Rip-Sticks, Inc.) and MW since their formations. Mr. Haith joined Maui Wowi Marketing, Inc., in January 1998 and served as its President, Chief Executive Officer and Director from 1999 until March 2002, when it was merged into us. From 1999 until March 2002, when Maui Wowi USA merged into our Affiliate, he also served as Chief Executive Officer and a Director of Maui Wowi USA, Inc. In 1990, Mr. Haith founded and continues to be the majority owner of Pour la France! Catering Inc. located in Denver, Colorado.

### **Michael T. Edwards – Chief Operating Officer**

Mr. Edwards has served as our Chief Operating Officer since April 2006. From August 2005 to April 2006 he was our General Manager. From August 2004 through July 2005, Mr. Edwards served as our Vice-President of Franchise Development. He originally joined us as Manager of Franchise Sales in February 2002, a position he remained in until August 2004. Prior to joining us, from January 1992 to January 2002, Mr. Edwards was employed with General Nutrition, Inc., a vitamin and nutritional supplement retailer, in Pittsburgh, Pennsylvania, as Division Sales Director for the East Coast Region.

### **Kent D. Smith – Chief Financial Officer**

Mr. Smith has served as our Chief Financial Officer since July 2006. From January 2001 to July 2006 he was the owner of Smith Enterprises RM, Inc., a consulting company and holding company located in Denver, Colorado. From July 2002 to November 2002 Mr. Smith was employed as a public accountant at KPMG International, and accounting firm located in Denver, Colorado. From July 1991 to July 2002 he was employed as a public accountant at Arthur Andersen LLP, an accounting firm located in in Denver, Colorado.

### **Janet Beaudry – Vice President, Real Estate**

Ms. Beaudry has been our Vice-President of Real Estate since May 2005. From August 2005 until May 2006 she served as our Vice President of Marketing. From January 2002 to August 2005 she was employed as a Vice-President of Sales and Marketing with Great American, LLC, an aftermarket automotive service center in Greenwood Village, Colorado. From February 1999 to September 2001 Ms. Beaudry was the Senior Director of Marketing for Flatiron Crossing, a shopping mall in Broomfield, Colorado.

### **Earl D. Blood – Vice President, Support**

Mr. Blood has served as our Vice President of Support since January 2007. From March 2006 to December 2006 he was Vice President of Operations for Maggie Moos International, LLC, a franchisor of specialty ice cream stores located in Columbia, Maryland. From August 2001 to January 2006 he was Regional Vice President of Operations for Mrs. Fields Famous Brands, an owner and franchisor of bakeries based in Salt Lake City, Utah.

### **Nesa Abraham – Franchise Development Manager**

Ms. Abraham joined us in October 2004 as a Franchise Development Manager. From May 2002 to September 2004 she worked for Fastrackids International, Inc., a franchisor of children education programs located in Greenwood Village, Colorado, as an International Marketing Manager. From 1999 to 2002 Ms. Abraham worked as a television producer and reporter.

**Kelly D. Anderson – Director of Distribution**

Ms. Anderson has been our Director of Distribution since September 2006. From August 1998 to August 2006 she was employed as the Multi-Unit Account Manager at VISTAR Corp., a food service distribution company located in Denver, Colorado.

**Cory Blackwood – Controller**

Mr. Blackwood has served as our Controller since November 2001.

**Kathleen M. Bostwick – Director of Support**

Ms. Bostwick has been our Director of Support since April 2006. From April 2005 to April 2006 she was our Franchise Support Manager, and from April 2003 to April 2005 she was our Global Development Manager. From January 2002 to May 2003 Ms. Bostwick was employed processing tax returns at Perkins and Company, a tax accounting firm located in Denver, Colorado.

**Angela M. Brazda - Franchise Development Coordinator**

Ms. Brazda joined us in October 2006 as our Franchise Development Coordinator. From August 2005 through October 2006 she served as Assistant Facility Supervisor for the Highlands Ranch Community Association in Highlands Ranch, Colorado. From August 2003 through August 2005 Ms. Brazda served as Assistant Facility Director for the University of Iowa. Prior to that, Ms. Brazda was employed at the University of Michigan.

**Sean L. Cochran – Franchise Development Manager**

Mr. Cochran has been our Franchise Development Manager since March 2006, and previously served as our Business Development Manager from July 2005 to March 2006. From May 2004 to July 2005 Mr. Cochran worked freelance as a residential real estate consultant. From January 1999 to May 2004 he was an Account Manager for Skytel Communications in New York City, New York and Denver, Colorado.

**Alison B. Hosler – Franchise Development Manager**

Ms. Hosler has been our Franchise Development Manager since March 2006. From December 2004 to November 2005 she was a Special Events Manager for Junior Achievement in Denver, Colorado. From February 2004 to November 2005 Ms. Hosler was also a Server for Highland-Pacific Restaurant in Denver, Colorado. From June 2004 to December 2004 she was employed as a Recruiter for the Esquire Group in Denver, Colorado. From October 2001 to June 2004 she was involved in Legal Staffing/Recruiting/Sales for Gibson, Arnold and Associates, a legal recruitment and placement firm located in Denver, Colorado.

**Justin R. Livingston – Franchise Development Coordinator**

Since May 2006 Mr. Livingston has been our Franchise Development Coordinator. From November 2003 to May 2006 he was Director of Sales and Marketing for Silver Canyon Coffee, a coffee roaster and wholesaler located in Boulder, Colorado. From September 1999 to June 2003 Mr. Livingston was the Pool Director and Head Swimming and Diving coach with Jenison Public Schools in Jenison, Michigan. From August 1998 to December 2002 Mr. Livingston was working on his undergraduate degree in International Business and Marketing at Grand Valley State University, Michigan.

**Victoria E. Ocken – Director of Marketing**

Ms. Ocken has been our Director of Marketing since March 2007. From January 2005 to December 2006 she served as a Field Marketing Consultant for Fazoli's Restaurants in Lexington, Kentucky. From October 2002 to January 2005, Ms. Ocken was Director of Marketing for Godfathers Pizza, Inc., a restaurant company, in Omaha, Nebraska. From July 2002 to October 2002 she served as an Account Executive for Info USA, a list seller, in Omaha, Nebraska. From June 2000 to May 2002 Ms. Ocken was Marketing Manager for Kenexa, a consulting company in Wayne, Pennsylvania.



### Gene M. Pike – Director of Hawaiian Products

Since October 2006 Mr. Pike has been our Director of Hawaiian Products. From September 2002 to September 2006 he served as the sales manager for Hawaiian Coffee Company, a manufacturer and distributor of gourmet coffee, in Honolulu, Hawaii. From January 2000 to September 2002 Mr. Pike was a partner in Island Marketing Group, a marketing company located in Carlsbad, California.

### Jennifer K. Stamm – Director of Communications

Ms. Stamm has been our Director of Communications since February 2007. From April 2006 to February 2007 she was the Communications Manager for us. From February 2006 to March 2006 she was an Executive Assistant to our CEO. From May 2005 to August 2005 she served as a market research intern for McClain Finlon Advertising, an advertising agency, located in Denver, Colorado. From 2001 to 2005 Ms. Stamm attended Colorado State University where she received her Bachelor of Business Administration with concentrations in Marketing and Management. From October 2000 to August 2002 Ms. Stamm was a hostess at Country Dinner Playhouse, a theater and restaurant in Englewood, Colorado.

### Kera T. Vo – Manager of Sales

Ms. Vo has been our Manager of Sales since January 2007. From September 2006 to January 2007 she was our Franchise Development Marketing Manager, and from July 2005 to September 2006 she was our Franchise Development Manager. She was our Franchise Development Marketing Manager from January 2004 to July 2005, and served as our Franchise Development Coordinator from June 2003 to January 2004. From June 2002 to February 2003 Ms. Vo was a Corporate Accounts Manager for Interdean Interconex International Movers, a relocation management business based in Ho Chi Minh City, Vietnam. From August 1997 to June 2002, she was an Office Manager in Sales for Helzberg Diamond Shops in Denver, Colorado.

### **DRS and Franchise Brokers**

A list of our DRS franchisees and the various franchise brokers associated with us is attached to this Offering Circular as **Exhibit K**.

## **ITEM 3. LITIGATION**

### Administrative

On November 11, 2005, we entered into a Consent Order with the Securities Commissioner of Maryland resulting from us inadvertently entering into four franchise agreements with Maryland residents after our registration in Maryland expired on June 9, 2004 (the “**Maryland Franchisees**”). The Consent Order required us to cease and desist from the offer and sale of unregistered franchises in Maryland, to diligently pursue the completion of our then pending application to register our Offering Circular in Maryland; to develop and implement new franchise law compliance procedures to ensure future compliance with the registration and disclosure provisions of Maryland Franchise Law, and to enroll an officer and a franchise compliance person in a franchise law compliance training program. Upon notification by the Securities Commissioner of Maryland, we sent to the Maryland Franchisees the registered Offering Circular, a copy of the Consent Order, and a letter notifying the Maryland Franchisees that they have a right to rescind the franchise agreement. We have complied fully with the Consent Order.

### **Concluded Arbitrations**

*David A. Harmon v. Maui Wowi Marketing, Inc.*, AAA Case No. 77 114 00141 02.

On November 8, 2004, David A. Harmon (“**Harmon**”) filed an Arbitration with the American Arbitration Association (“**AAA**”) against our predecessor, Maui Wowi Marketing, Inc., alleging that it breached a Franchise Termination Buy Back and Release Agreement (the “**Termination Agreement**”). Specifically, Harmon alleged that Maui Wowi Marketing, Inc. failed to provide monetary payments, equipment, and franchise sales opportunities to him. We, as the successor to Maui Wowi Marketing, Inc., denied all of Harmon’s allegations and we filed counterclaims against Harmon alleging that he fraudulently induced Maui Wowi Marketing, Inc. into entering into the Termination Agreement

and that he has been unjustly enriched by monies and equipment provided pursuant to the Termination Agreement. A hearing was held on November 14, 2005, in Salt Lake City, Utah, and in January 2006 the arbitrator entered an award in Harmon's favor in the amount of \$503,000. Subject to the terms of the arbitration award, he also has the right to sell a total of 15 MAUI WOWI franchises provided he sells them in strict accordance with our Franchise Offering Circular. After he sells any of the 15 franchises, we must pay him any franchise fees collected for any leads provided to us by him which results in a sale of a franchise. As of the date of this Offering Circular, no leads have been provided by Harmon.

*Vinod Sagar v. Maui Wowi Marketing, Inc.*, AAA Case No. 73 114 00464 05.

On September 12, 2005, Vinod Sagar ("Sagar") filed an Arbitration with the AAA against us, alleging that we breached a Franchise Agreement. Sagar claimed that we failed to comply with our obligations to locate and negotiate the business terms for a lease for his business, by failing to secure the rights for him to operate at the Los Angeles Convention Center and the Anaheim Convention Center. Sagar claimed damages in excess of \$2 million. We denied that we breached any Franchise Agreement, and further alleged that if we did breach the Franchise Agreement, his damages were approximately \$11,000. A hearing was held on February 5, 6, and 7, 2007 in Denver, Colorado. Following the hearing, on February 14, 2007, the arbitrator entered his decision finding that, although Sagar's interpretation of our obligations under the Franchise Agreement was unjustifiable and his claimed damages were speculative and unsupportable, both parties to the Franchise Agreement failed to perform certain obligations under the Franchise Agreement. The arbitrator ultimately awarded Sagar a total of \$38,400 as lost profits and \$5,000 as a refund of the location fee which we had already offered to repay, plus one half of Sagar's attorney's fees and costs.

#### **Pending Arbitrations**

No pending arbitrations are required to be disclosed in this Offering Circular.

Except for the one Consent Order, the two arbitrations above, and as otherwise disclosed in **Exhibit K** related to any litigation associated with franchise brokers, no other litigation is required to be disclosed in this Offering Circular.

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

Except as otherwise disclosed in **Exhibit K** related to any bankruptcies of any franchise brokers, no person or entity previously identified in ITEMS 1 or 2 of this Offering Circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this ITEM.

#### **ITEM 5. INITIAL FRANCHISE FEE**

The initial franchise fee ("**Initial Franchise Fee**") for a Single Unit Franchise is \$27,500. The Initial Franchise Fee for a Standard Franchise is \$34,500. The Initial Franchise Fee for an Empire Builder Franchise is \$59,500. The Initial Franchise Fee for each type of franchise is due in full upon signing of the Franchise Agreement. In addition, for each of the above types of franchise available, there is a one time Hawaiian training fee of \$3,500 (the "**Hawaiian Training Fee**") for you (or, if you are not an individual, then a managing member, partner or officer of you designated by you to participate personally in the MAUI WOWI Business) to participate in the required Hawaiian training program. If you choose to have additional individuals participate in the Hawaiian training program, you must pay an additional Hawaiian Training Fee for each additional individual. (See ITEMS 7 and 11.) The Initial Franchise Fee is fully earned by us on signing the Franchise Agreement and is entirely non-refundable except if we, in our sole and absolute discretion, determine that you have not successfully completed (or are not making satisfactory progression in) your Hawaiian training program or your initial training program, at which point we may cancel all your rights (and all of your obligations) under the Franchise Agreement and/or any other agreements with you, in which event we will refund 50 percent of the Initial Franchise Fee. If you cancel the attendance of you or any other individual scheduled to participate in the Hawaiian training program 76 days or more prior to date the program is scheduled to begin, you will receive a refund of the Hawaiian Training Fee less \$250. If you cancel the attendance of you or any other individual 46 to 75 days prior to date the program is scheduled to begin, you will receive a refund of the Hawaiian Training Fee less \$500. If you cancel the attendance of you or any other individual eight to 45 days prior to date the program is scheduled to begin, you will receive a refund of 50 percent of the Hawaiian Training Fee. If you cancel the attendance of you or any other individual within eight days of the date the program is scheduled to begin, you shall not be entitled to any refund of the Hawaiian Training Fee.

The Initial Franchise Fees described above are uniform for all franchisees acquiring a franchise, based on the type of franchise being purchased, except that an Empire Builder Franchise owner who opens and is operating 10 Operating Units within three years of the date he or she signs the Franchise Agreement and is in good standing will earn the right to receive an additional Standard Franchise without paying an additional Initial Franchise Fee. For that Standard Franchise, the Hawaiian Training Fee will also be waived and the Hawaiian training program will not be provided, unless you elect to participate in the Hawaiian training program again and pay the Hawaiian Training Fee again.

When a MAUI WOWI franchise is awarded or transferred in a DRS Territory, we will pay the DRS a portion of the Initial Franchise Fee or Transfer Fee. Otherwise, no fees are collected by or for a third party.

In addition to the Initial Franchise Fee and Hawaiian Training Fee, there are other payments that you are required to make to us or our Affiliate before your MAUI WOWI Business can open. These include purchases for your opening inventory, and, as applicable, and payment for your Ka'anapali Cart, Event Concession Trailer or Fixed Kiosk. Depending on the type of Operating Unit you select, you may also be required to purchase from us or our Affiliate a bundled Hawaiian coffee/Esspresso program or brewed coffee equipment, along with certain other equipment, décor and signage, and pay our Affiliate a TurnKey Fee (defined in ITEM 7). See ITEM 7 below for a detailed listing of items that must be purchased as part of your initial investment for a MAUI WOWI Business based on the type of Operating Unit you desire to operate.

#### ITEM 6. OTHER FEES

Name of Fee	Amount	Due Date	Remarks
Royalty <sup>(1)(2)</sup>	6% on the gross revenue generated by the sale of approved non-proprietary products purchased from third parties and non-MAUI WOWI branded items purchased from our Affiliate	Weekly, or at greater intervals in our discretion	In lieu of a royalty, our Affiliate receives income from the sale of MAUI WOWI Products and MAUI WOWI Supplies and Equipment to you. However, a royalty of 6% will be collected on approved non-proprietary products and non-MAUI WOWI branded items that you sell.
Marketing Fee <sup>(1)(2)</sup>	12% of the purchase price of MAUI WOWI Products and MAUI WOWI Supplies and Equipment. 2% on the gross revenue generated by the sale of approved non-proprietary products purchased from third parties and non-MAUI WOWI branded items purchased from our Affiliate.	Payable at the time of each purchase of the MAUI WOWI Products and MAUI WOWI Supplies and Equipment from our Affiliate and weekly (or at greater intervals in our discretion) via reports of gross revenues for sales of approved non-proprietary products purchased from third parties and non-MAUI WOWI branded items purchased from our Affiliate	The Marketing Fee of 12% of the purchase price of MAUI WOWI Products and MAUI WOWI Supplies and Equipment is calculated at the time of the purchase and is in addition to the list price for MAUI WOWI Products and MAUI WOWI Supplies and Equipment. This fee represents approximately 1% to 2% of the recommended sales price of a typical smoothie. See ITEM 11.
H-E-B Royalty <sup>(1)(2)</sup>	.42% of monthly gross revenue	Monthly by the 10th day of each month based on your gross revenue for the preceding month	Applies only if you will be operating an H-E-B Retail Store, and applies only to your gross revenue during the first 12 months of operations. See ITEM 12.
Inventory Purchases <sup>(1)</sup>	Will vary	Prior to delivery or as agreed	Our Affiliate charges you for the products you purchase from it.

Name of Fee	Amount	Due Date	Remarks
TurnKey Fee <sup>(1)</sup>	\$17,500 - \$21,500	Upon signing each Operating Unit Rider to open a Retail Store or Fixed Kiosk	Payable to our Affiliate for assisting you in locating a Permanent Site for a Retail Store or Fixed Kiosk, providing turnkey services, including architectural designs up to \$5,000 (or \$4,000, if using an architect other than a preferred architect), on-site training, and a grand opening marketing kit. <u>See ITEM 7.</u>
Intranet Management Fee <sup>(1)</sup>	\$29.95/month	Monthly	Collected during first seven days of each month via ACH or credit card, for access to our proprietary intranet system online network for communications and ordering.
Web Interface Design Fee <sup>(1)</sup>	\$350 initially, then \$29.95/month	Upon website approval	Payable to our Affiliate if we require you to use our designated central web page designer, this amount includes the web design and the first month hosting fee of \$29.95. Any future web design changes will be subject to additional charges.
POS System Software Maintenance, Support, and Upgrade Contract <sup>(1)</sup>	\$112.50/month	Beginning one year after purchase of POS System	Applies only if you operate from a Permanent Site. If you operate at a Permanent Site, you are required to obtain a POS System (defined in ITEM 7) that we designate from the supplier that we designate. The first year of maintenance, service, and support for the software of the POS System is included in the purchase price of the POS System, but after that period you will be required to purchase a software maintenance, support, and upgrade contract from the supplier and pay this monthly fee, which is subject to increase by the supplier. <u>See ITEM 11.</u>
Additional Training and On-Site Assistance <sup>(1)</sup>	Currently any additional training will cost \$500 per day (not including travel and lodging expenses).	In advance	We provide additional training and on-site assistance upon your reasonable request. <u>See ITEM 11.</u> We can change the costs upon 30 days notice to you.
Expenses of Attending Annual Convention Meetings <sup>(1)</sup>	\$1,000 for two to attend the Annual Franchise Owner National Convention, and if you attend \$500 is credited back to you; \$500 for each additional attendee you bring in excess of two	As incurred	We reserve the right to conduct periodic meetings of all MAUI WOWI franchisees that you are required to attend. We will charge you by ACH or credit card on the time frame as is set forth in the Library of Operating Manuals. You are also responsible for any travel and living expenses in attending the Annual Franchise Owner National Convention. There may be additional costs and expenses associated with additional mandatory conferences. <u>See ITEM 11.</u>
Training Cancellation Fee <sup>(1)</sup>	\$500	At time of cancellation	If you cancel your initial training program attendance within two weeks of the date of the program, you will be required to pay this cancellation fee to us.
Transfer <sup>(1)</sup>	25% of the then-current Initial Franchise Fee	At time of approved transfer	Payable to us when you sell your franchise. No charge if franchise transferred to an entity which you control. <u>See ITEM 9.</u>

Name of Fee	Amount	Due Date	Remarks
Transferee Training Fee <sup>(1)</sup>	\$2,500 plus our travel expenses for a 2-day on-site training by us	At time of approved transfer	If you sell your MAUI WOWI Business, the new owner will be required to pay this fee to us for on-site training.
Sales Registration Period Waiver Fee <sup>(1)</sup>	\$5,000	Upon submission of sales registration paperwork for transfer	If you seek to sell your MAUI WOWI Business, you are required to provide sales registration paperwork to us at least 45 days before listing for sale your MAUI WOWI Business, but you may request a reduction or waiver of this 45 day period upon payment of this fee, which request we may grant or deny in our sole discretion.
Renewal Fee <sup>(1)</sup>	20% of the franchise fee being charged at the time	At time of renewal	Payable before renewal.
Resale Assistance Fee <sup>(1)</sup>	\$12,500 per franchise	At time of sale of your franchise	Payable to us only if we identify a buyer for one or more of your Operating Units.
Interest on Past Due Invoices <sup>(1)(3)</sup>	See Note 3 below	Immediate	Interest accrues on all payments not received by the due date indicated on the respective invoice.
Late Fees <sup>(1)</sup>	\$100	As incurred	We may charge you a late fee of \$100 if any reports or fees are not delivered or paid when due.
Costs and Attorneys' Fees <sup>(1)</sup>	Will vary depending on nature of your default	As incurred	Payable upon your failure to comply with the Franchise Agreement, or if you fail to prevail in litigation or arbitration against us related to the Franchise Agreement.
Indemnification Under Franchise Agreement <sup>(1)</sup>	Will vary depending on nature of the claim against us	As incurred	You have to reimburse us if we are held liable for claims resulting from your MAUI WOWI Business.
Audit Fee <sup>(1)</sup>	Will vary based on cost of audit	When we discover an underpayment or if a report is not submitted as required, with 10 days notice	You must reimburse us the cost of an audit if we discover an underpayment of greater than 2% or if a report is not submitted as required.
Fees for Dishonor of ACH or Credit Card Payment <sup>(1)</sup>	2.5% of the Amount Requested as a handling fee, plus a \$50 non-sufficient funds or non-sufficient credit fee	Immediate	The handling fee and non-sufficient funds or non-sufficient credit fee are imposed when an ACH or credit card transaction is not honored.

(1) These fees are imposed by us and paid to us or our Affiliate. None of these fees are refundable. We require you to pay for purchases of MAUI WOWI Products and MAUI WOWI Supplies and Equipment electronically by Automatic Clearing House ("ACH") or by charges to your credit card. We reserve the right to implement and require another fund transfer network or billing system in the future.

(2) Gross Revenues include all revenues you receive from your customers. Gross Revenues do not include sales or use tax or discounts you provide to your customers.

(3) Interest begins from the date of non-payment. Interest is the greater of (i) the Prime Rate plus 4 percent, or (ii) 18 percent per annum calculated monthly on any outstanding balance. "Prime Rate" is the announced base rate applicable to corporate loans in the Wall Street Journal.

**ITEM 7.  
INITIAL INVESTMENT**

**Ka'anapali Cart or Event Concession Trailer Operating Unit Operating  
(Note 1)**

<b>ITEM</b>	<b>Amount Range</b>	<b>Method of Payment</b>	<b>When due</b>	<b>To Whom Payment is to be Made</b>
Initial Franchise Fee and Training Fee (Note 2)	\$34,500 - \$59,500	Lump Sum	When you sign the Franchise Agreement	Us
Hawaiian Training Fee (Note 3)	\$3,500	Lump Sum	When you sign the Franchise Agreement	Us
Travel and Living Expenses Incurred by You During the Hawaiian Training and Initial Training (Note 4)	\$300 - \$3,550	As incurred	As Incurred	Third Parties
Concession License Fee (Note 5)	(Note 5)	(Note 5)	(Note 5)	Third Parties
Ka'anapali Cart/Event Concession Trailer (Note 6)	\$21,390 - \$62,500	Lump Sum	When purchased	Supplier/Our Affiliate
Coffee Equipment (Note 9)	\$3,600 - \$10,000	Lump Sum	When purchased	Supplier/Our Affiliate
Optional Equipment (Note 10)	\$0 - \$16,865	Lump Sum	When Ordered	Supplier/Our Affiliate; Approved Third Parties
Opening Inventory (Note 12)	\$5,000 - \$9,000	As Incurred	As Incurred	Supplier/Our Affiliate
Miscellaneous Opening Costs (Note 14)	\$1,750 - \$5,000	As Incurred	As Incurred	Third Parties
Additional Funds - 3 Months (Note 15)	\$0 - \$13,500	As Incurred	As Incurred	Third Parties
POS System, Credit Card Processing and Back Office Computer Equipment (Optional) (Note 16)	\$0 - \$16,000	Lump Sum	Prior to Opening	Third Parties
<b>TOTAL:</b> (Note 17)	<b>\$70,040 - \$199,415</b>			

**Additional Investment if the Ka'anapali Cart or  
Event Concession Trailer Operating Unit Is Operated From a Permanent Site**

<b>ITEM</b>	<b>Amount Range</b>	<b>Method of Payment</b>	<b>When due</b>	<b>To Whom Payment is to be Made</b>
Real Estate Lease (Note 5)	\$1,200 - \$30,000	As Agreed	As Agreed	Third Parties
Commercial Broker's Fee (Note 8)	\$0 - \$15,000	Lump Sum	As Agreed	Commercial Broker
POS System, Credit Card Processing and Back Office Computer Equipment (Note 16)	\$8,000 - \$16,000	Lump Sum	Prior to Opening	Third Parties
<b>ADJUSTED TOTAL:</b> (Note 17)	<b>\$79,240 - \$244,415</b>			

**Fixed Kiosk or Non-Traditional Operating Unit  
(Note 1)**

<b>ITEM</b>	<b>Amount Range</b>	<b>Method of Payment</b>	<b>When due</b>	<b>To Whom Payment is to be Made</b>
Initial Franchise Fee and Training Fee (Note 2)	\$27,500 - \$59,500	Lump Sum	When you sign the Franchise Agreement	Us
Hawaiian Training Fee (Note 3)	\$3,500	Lump Sum	When you sign the Franchise Agreement	Us
Travel and Living Expenses Incurred by You During the Hawaiian Training and Initial Training (Note 4)	\$300 - \$3,550	As incurred	At Training	Third Parties
Real Estate Lease (Note 5)	\$1,200 - \$30,000	As Agreed	As Agreed	Third Parties
Equipment/Décor/Kiosk (Notes 6 and 9)	\$27,775 - \$72,800	Lump Sum	When purchased	Supplier/Our Affiliate
Construction (Note 7)	\$10,000 - \$100,000	Lump Sum	When purchased	Supplier/Our Affiliate
Commercial Broker's Fee (Note 8)	\$0 - \$15,000	Lump Sum	As Agreed	Commercial Broker
Optional Equipment (Note 10)	\$0 - \$11,865	Lump Sum	When Ordered	Supplier/Our Affiliate; Approved Third Parties
TurnKey Fee (Note 11)	\$17,500 - \$21,500	Lump Sum	Upon signing an Operating Unit Rider to open a Fixed Kiosk or Non-Traditional Operating Unit	Our Affiliate
Opening Inventory (Note 12)	\$5,000 - \$10,000	As Incurred	As Incurred	Supplier/Our Affiliate
Signage (Note 13)	\$3,500 - \$7,500	As Incurred	As Incurred	Supplier/Our Affiliate
Miscellaneous Opening Costs (Note 14)	\$3,000 - \$8,000	As Incurred	As Incurred	Third Parties
Additional Funds - 3 Months (Note 15)	\$0 - \$13,500	As Incurred	As Incurred	Third Parties
POS System, Credit Card Processing and Back Office Computer Equipment (Note 16)	\$8,000 - \$16,000	Lump Sum	Prior to Opening	Third Parties
<b>TOTAL:</b> (Note 17)	<b>\$107,275 - \$372,715</b>			

**Drive-Thru or In-Line Operating Unit  
(Note 1)**

<b>ITEM</b>	<b>Amount Range</b>	<b>Method of Payment</b>	<b>When due</b>	<b>To Whom Payment is to be Made</b>
Initial Franchise Fee and Training Fee (Note 2)	\$27,500 - \$59,500	Lump Sum	When you sign the Franchise Agreement	Us
Hawaiian Training Fee (Note 3)	\$3,500	Lump Sum	When you sign the Franchise Agreement	Us
Travel and Living Expenses Incurred by You During the Hawaiian Training and Initial Training (Note 4)	\$300 - \$3,550	As incurred	At Training	Third Parties

ITEM	Amount Range	Method of Payment	When due	To Whom Payment is to be Made
Real Estate Lease (Note 5)	\$1,200 - \$30,000	As Agreed	As Agreed	Third Parties
Construction (Note 7)	\$40,000 - \$350,000	Lump Sum	When purchased	Supplier/Our Affiliate
Commercial Broker's Fee (Note 8)	\$0 - \$15,000	Lump Sum	As Agreed	Commercial Broker
Equipment/Décor (Note 9)	\$25,000 - \$105,000	Lump Sum	When purchased	Supplier/Our Affiliate
Optional Equipment (Note 10)	\$0 - \$11,865	Lump Sum	When Ordered	Supplier/Our Affiliate; Approved Third Parties
TurnKey Fee (Note 11)	\$17,500 - \$21,500	Lump Sum	Upon signing an Operating Unit Rider to open a Drive-Thru or In-Line Operating Unit	Our Affiliate
Opening Inventory (Note 12)	\$8,000 - \$10,000	As Incurred	As Incurred	Supplier/Our Affiliate
Signage (Note 13)	\$15,000 - \$30,000	As Incurred	As Incurred	Supplier/Our Affiliate
Miscellaneous Opening Costs (Note 14)	\$3,000 - \$8,000	As Incurred	As Incurred	Third Parties
Additional Funds - 3 Months (Note 15)	\$0 - \$13,500	As Incurred	As Incurred	Third Parties
POS System, Credit Card Processing and Back Office Computer Equipment (Note 16)	\$8,000 - \$16,000	Lump Sum	Prior to Opening	Third Parties
<b>TOTAL:</b> (Note 17)	<b>\$149,000 -</b> <b>\$677,415</b>			

(1) There are three types of MAUI WOWI unit franchises that you may purchase: a Single Unit Franchise, a Standard Franchise, and an Empire Builder Franchise. (See ITEM 1.) Regardless of the type of franchise you choose to buy, your initial investment will depend mainly on the type of Operating Unit you choose to open as your first Operating Unit. Therefore, the anticipated initial investment estimates provided in the chart are broken down based on the type of Operating Unit you select as your first Operating Unit. If you acquire a Single Unit Franchise, you will be required to sign the Fixed Kiosk or Retail Store Operating Unit Rider. If you acquire a Standard Franchise or an Empire Builder Franchise, upon signing your Franchise Agreement, you will be required to sign an Operating Unit Rider regarding the type of Operating Unit you will operate for your first Operating Unit. If you are purchasing a Standard Franchise or Empire Builder Franchise, you will be required to execute an additional Operating Unit Rider for each additional Operating Unit you choose to open prior to you opening that Operating Unit, and you will incur additional costs for opening and operating additional Operating Units.

(2) The Initial Franchise Fee is \$27,500 for a Single Unit Franchise, \$34,500 for a Standard Franchise and \$59,500 for an Empire Builder Franchise (see ITEM 5). Initial Franchise Fees are paid only once based on the type of franchise acquired by you. A Single Unit Franchise may not operate a Ka'anapali Cart or an Event Concession Trailer Operating Unit.

(3) The Hawaiian Training Fee is \$3,500 for a Hawaiian training program that you (or, if you are not an individual, then a managing member, partner or officer of you designated by you to participate personally in the MAUI WOWI Business) are required to attend. You may, at your option, have additional individuals attend the Hawaiian training program by paying an additional Hawaiian Training Fee of \$3,500.00 for each individual. The Hawaiian Training Fee may be partially refunded if you cancel your attendance in the Hawaiian training program (or the attendance of any other individual) within certain time frames. (See ITEM 5.)

(4) The Hawaiian Training Fee will also cover your living and transportation expenses during the Hawaiian training program, but you are responsible to pay for all of your air transportation expenses associated with the Hawaiian training



program. The cost of the air transportation expenses will vary depending on where you will be traveling from, the time you will be traveling, and other factors. We also provide an initial training program for up to two individuals (or up to three individuals if you purchase an Empire Builder Franchise) at a location we designate in the Denver, Colorado metro area without an additional fee. (See ITEM 11.) You must pay your own transportation and living expenses during the initial training program. If you cancel your attendance at the initial training program within two weeks of the first day of the initial training program, you will be charged a \$500 cancellation fee unless we waive this fee in writing. You must attend the Hawaiian training program prior to attending the initial training program. (See ITEMS 6 and 11.) If you purchase an Empire Builder Franchise, we will later provide the initial training program for an additional Manager for each subsequent Operating Unit you elect to open after the first Operating Unit.

(5) Depending on what type of Operating Unit you choose to operate, you may incur lease or concession license charges. If you choose a Retail Store or a Fixed Kiosk Operating Unit, or if you choose to operate Ka'anapali Cart or an Event Concession Trailer at a Permanent Site rather than an Event, you will be required to purchase or lease real property where your Operating Unit will be located. You will need approximately 300 to 1,200 square feet of floor space. The estimates in the tables include the first three month's lease payments, and a security deposit equal to one month's rent. We used a lease rent rate of between \$4.00 and \$25.00 per square foot. However, the lease rent rate and required deposit varies considerably from location to location. If you operate an H-E-B Retail Store (as defined in ITEM 12), you will pay rent equal to 8 percent of your gross revenues in excess of \$16,250 per month. See ITEM 12 for more information regarding the H-E-B Retail Stores.

If you choose to operate from a Ka'anapali Cart or an Event Concession Trailer at an Event, you may be charged a concession license charge by the organizer of the Event. These costs vary depending on the Event and its organizer.

You should investigate these charges before you agree to operate at a particular Permanent Site or Event. (See also Note 8 below.)

(6) You must pay for the Ka'anapali Cart, Event Concession Trailer or Fixed Kiosk immediately upon executing the Operating Unit Rider for the relevant Operating Unit. Shipping costs for the Ka'anapali Cart and Event Concession Trailer are included in this estimate and vary depending on type of unit and delivery destination, but are estimated to range from \$0 to approximately \$2,500. The shipping costs for the Fixed Kiosk are included with the construction costs (see Note 6, below). Additionally, these estimates include the Marketing Fee (as defined in ITEM 11), which will be added to all of these costs. If you will be operating an Event Concession Trailer, you will need to own a suitable vehicle to tow the Event Concession Trailer. We have not included the cost of a vehicle or trailer (other than the Event Concession Trailer itself) in these estimated costs.

(7) The cost incurred to construct a Fixed Kiosk or Retail Store will depend on a large number of factors that will vary by the location for the Fixed Kiosk, In-Line, Non-Traditional, or Drive-Thru Operating Unit, including the Permanent Site you choose, the region of the country where your MAUI WOWI Business is located, and the costs incurred to run necessary electrical and water lines. The highest end of this estimate, \$350,000, represents the high estimate for the costs of construction of a Drive-Thru Operating Unit.

(8) This fee is payable only if you engage the services of an independent commercial broker to assist you in locating a Permanent Site. In some cases, the broker's fee may be paid partially or fully by the landlord, however, this fee is ultimately your responsibility. The broker will generally assist you in identifying a Permanent Site and negotiating the business terms, but you or your attorney must still negotiate the legal terms of any lease you sign. You must clearly understand all terms and conditions of the lease agreement. This fee is payable based on the terms you negotiate with your broker.

(9) You must purchase espresso machines, blenders, signage, décor and other equipment set forth in the Library of Operating Manuals. If you are operating a Ka'anapali Cart or an Event Concession Trailer Operating Unit, you must buy the Hawaiian coffee program from our Affiliate but you are not obligated to buy the Espresso program. The Marketing Fee will also be added to all purchases of MAUI WOWI Supplies and Equipment and MAUI WOWI Products. (See ITEM 11.)

(10) In addition to the required equipment purchases discussed above, there are other items of equipment that, although not mandatory, are generally recommended that you acquire. This includes a custom transport trailer for the Ka'anapali Cart, if applicable, which ranges in price from \$3,000 to \$5,000, a cooler that costs \$3,672 and a three-basin sink that costs \$3,672. All of these items are available from our Affiliate. You will be charged a 12 percent Marketing Fee on all equipment purchases. Although we do not require it, for some locations the local zoning, health, or similar

regulations may require that you invest in (1) a three-basin sink with hot water and splash guard; (2) a free-standing metal insulated cooler; (3) Ka'anapali Cart walls; or (4) plumbing and electrical installation for the Ka'anapali Cart. We have not included estimates for Ka'anapali Cart walls or plumbing and electricity for the Ka'anapali Cart in the chart. We have also not included costs for optional equipment for a Retail Store, due to the fact that equipment needs for Retail Store are widely variable and are therefore determined on a case by case basis.

(11) We and our Affiliate have established a network of professional organizations to assist all franchisees opening Fixed Kiosk and Retail Store Operating Units. You are required to work with vendors designated by us and our Affiliate for the location, development and construction of your Fixed Kiosk or Retail Store, including architects, real estate brokers, millwork, signage and equipment suppliers, construction service providers, and contractors. If you use the designated vendors, you will be charged a turnkey fee ("TurnKey Fee") of \$17,500. If you are unable to use any of the designated vendors, you must obtain our prior written approval to use an outside vendor or vendors. The materials, use of materials, accuracy in design, warranty review, and other pertinent items related to such outside vendors must also be approved in writing by us. We may withhold our approval in our discretion for any reason. An additional \$3,000 will be charged for using an outside vendor, and an additional \$1,000 will be charged for using an outside non-approved signage vendor. The TurnKey Fee includes payment up to \$5,000 of your architect fees if you use a preferred architect designated by us in writing or \$4,000 of your architect fees if you use an architect other than a preferred architect we designate. You are responsible for any amount owed to the architect you use in excess of these amounts. As a part of our services provided for the TurnKey Fee, we will also provide you with a grand opening marketing kit. If you purchase an Empire Builder franchise, the TurnKey Fee that you will be charged upon signing the Operating Unit Rider for your second Operating Unit at a Permanent Site will be reduced by 50 percent, and the TurnKey Fee will be waived for the third and all subsequent Operating Units that you later open at a Permanent Site pursuant to the Franchise Agreement.

The TurnKey Fee for H-E-B Retail Stores (described in ITEM 12, below) is \$9,000 (the "H-E-B TurnKey Fee"). In accordance with your Franchise Agreement, you will pay the standard TurnKey Fee of \$17,500. If you are awarded the H-E-B Retail Store, the excess of the standard TurnKey Fee and the H-E-B TurnKey Fee will be held by our Affiliate and either applied to the TurnKey Fee for a later Retail Store or Fixed Kiosk Operating Unit you may acquire or applied to a Ka'anapali Cart or Event Concession Trailer you may acquire. If the H-E-B Retail Store is your final Operating Unit permitted under the Franchise Agreement, we may, in our sole discretion, permit you to apply any amounts left over towards other purchases. We pay the first \$5,000 of your architect fees if you use a preferred architect, designated by us in writing.

(12) The minimum required opening inventory varies by Operating Unit. For all Operating Unit types, you are required to purchase 64 cases of MAUI WOWI Blends for making smoothies. You must buy this amount of opening inventory from our Affiliate when you sign your Operating Unit Rider to open an Operating Unit. You may be permitted to buy a lesser initial amount of opening inventory if your Operating Unit is located in an area in close proximity to one of our distribution centers.

(13) You must purchase and install at your expense signage based on our System standards, as described in the Library of Operating Manuals.

(14) The Miscellaneous Opening Costs include utility costs, business entity organization expenses, insurance and deposits for the first three months of operation of your MAUI WOWI Business, as well as the miscellaneous small wares. If you purchase an Empire Builder Franchise, we will engage a business and franchise law attorney to provide you with up to one hour of phone consultation to discuss business entity organization issues, file all necessary documents needed for incorporation and pay state assessed filing fees of up to \$1,000 (you will be responsible for additional amounts if your state has filing fees in excess of \$1,000), and provide suggestions on establishing corporate bylaws and minutes.

(15) This is for budgeting purposes only to account for unanticipated expenses. This estimates your pre-operational expenses, which we have not listed above, as well as additional funds necessary for the first three months of your business operations but excludes any revenue you may generate from operating your MAUI WOWI Business. These figures are estimates and we cannot guarantee that you will not have additional expenses starting the MAUI WOWI Business. 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; local zoning or regulation compliance; the local market for our products and services; the prevailing wage rate; competition; and the sales level reached during this initial period. This item includes a variety of expenses and working capital items during your start-up phase such as: legal and accounting fees; advertising, promotional expenses and materials; employee salaries and bonus programs; and other miscellaneous costs. However, this item excludes your salary and also excludes any sales, use or similar taxes that may be assessed by

your state or local authorities. Please check with your local and state governmental agencies for any taxes that may be assessed.

(16) This figure includes the cost range for a point-of-sale system ("POS System"), credit card processing, and back office computer systems. These systems are currently required only for Retail Stores, Fixed Kiosks, and Ka'anapali Cart or an Event Concession Trailer Operating Units operating from Permanent Sites. They are currently optional for Ka'anapali Cart or an Event Concession Trailer Operating Units operating from Events. You are required to use the POS System designated by us. (See ITEM 11.) We reserve the right to require a POS System, credit card processing, and back office computer system for the K'anapali Carts and Event Concession Trailers operating from Events. The range in the cost of these systems is dependent upon a number of factors, including the number of terminals, type of hardware, type and number of peripheral devices, additional software requirements and back office computer configuration.

(17) We relied on our principals' and our predecessors' principals' combined 25 years of experience in the fresh fruit smoothie business as well as reporting provided by some of the over 300 franchise operators of ours to compile these estimates. This is an estimate of your initial investment and is based on our estimate of nationwide average costs and market conditions prevailing as of the date of this Offering Circular. You must bear any deviation or escalation in costs from the estimates that we have given. You should review these figures carefully with a business advisor before making any decision to purchase a franchise. Presently, we do not offer financing for any part of your initial investment (see ITEM 10). The availability and terms of financing from independent third parties depends on factors such as the availability of financing generally, your creditworthiness, other security and collateral you may have and policies of lenders. Your costs may be even greater than the high range noted in the chart if you purchase an Empire Builder Franchise or Standard Franchise and open multiple Operating Units. All of the payments to us and our Affiliate are nonrefundable under any circumstances once paid, except that the Initial Franchise Fee may be partially refunded if we determine that you have not successfully completed (or are not making satisfactory progress in) your Hawaiian training program or initial training program. Amounts paid to any third parties may be refundable depending upon the contracts between them and you. (See ITEM 5.)

#### ITEM 8.

#### RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

We require that you establish and operate your MAUI WOWI Business in compliance with your Franchise Agreement. You must strictly follow our product and service specifications as stated in the library of operating manuals we will provide to you (the "Library of Operating Manuals"). The Table of Contents of the Library of Operating Manuals as of the date of this Offering Circular is included in this Offering Circular as Exhibit I. The Library of Operating Manuals consists of one or more manuals, technical bulletins or other written materials, including a site submittal workbook, event workbook, construction manual, and store design guidebook which we may modify at any time in our sole discretion. At our option, we may make the Library of Operating Manuals available to you via the Internet or other electronic means. If any inconsistencies exist between the provisions in any Library of Operating Manuals we loan to you, or otherwise make available to you, and our master Library of Operating Manuals we maintain at our office, regardless of whether it is in electronic or other form, our master Library of Operating Manuals will control. In operating your MAUI WOWI Business, you must strictly follow the procedures, standards and specifications in the Library of Operating Manuals and in the Franchise Agreement, and all products and supplies must conform to our standards and specifications which have been established through years of experience. Failure to do so is grounds for termination of your Franchise Agreement.

As technological advances in equipment occur, or we find better tasting and/or improved ingredients to use, we may modify our products and equipment specifications accordingly. We reserve the right to change our standards and specifications with prompt written notice to you by fax, mail, electronic mail or as posted on our "Franchise Operators" web page on our website. Modifications to the Library of Operating Manuals will not materially alter your economic rights under the Franchise Agreement. Our standards and specifications have been established in order to maintain a uniform standard of high quality, value, customer recognition, advertising support and availability to be furnished to the public in connection with our Marks.

You must purchase all of the items you sell through your MAUI WOWI Business and use in your MAUI WOWI Business from us, our Affiliate or a source we designate or approve. If there is no designated supplier for a particular item, you must purchase all products and services from other suppliers who meet all of our specifications and standards. Our Affiliate is one of the designated suppliers for all MAUI WOWI Products and MAUI WOWI Supplies and Equipment. At present, our Affiliate offers the following items to our franchisees: MAUI WOWI Blends, MAUI WOWI Hawaiian coffee and espresso products and machines, cups, blenders, apparel accessories such as aprons, caps and shirts, and the

Ka'anapali Carts, Event Concession Trailers, Fixed Kiosks and associated fixed store-front materials. Our Affiliate will supply most items you need to conduct your MAUI WOWI Business with the exception of fresh bananas, ice and milk. You may also purchase certain products and equipment from authorized third party distributors, vendors, or suppliers which may have their own terms and conditions of sale. We will provide a list of these authorized third party entities to you. This list is subject to change without notice.

You must sell and provide only MAUI WOWI Products and MAUI WOWI Services and other products and services previously approved by us or our Affiliate (the "Approved Products and Services"). There can be no substitutions, unapproved formulas, or unapproved product mixtures without our prior written consent.

If you want to sell, offer, conduct or utilize any products, services, materials, forms, items or supplies for sale or use in the operation of your MAUI WOWI Business which we have not previously approved as meeting our specifications, you must receive written notification from us expressing our approval. We may, in our sole discretion, and for any reason, withhold our approval. Our criteria for supplier approval are available to you on request. We base our approval on quality, vendor reputation, pricing, composition, finish, distribution area, appearance and service, and our professional opinion about the compatibility of the product with our company image and product line. For us to make a determination, you must submit specifications, information and samples of the proposed products or services as outlined in the Library of Operating Manuals. If we require that samples from a proposed new supplier be delivered to us for testing before we approve the supplier, you must reimburse us for the costs of conducting any tests that we decide are necessary. We will advise you within a reasonable amount of time whether the products or services meet our specifications. We require that suppliers adequately demonstrate their capacity to supply your needs, in the quantities, at the times, and with the reliability requisite to an efficient operation. We may change our standards and specifications, or suppliers who have our authorization, at any time, if we give you written notice in advance.

The purchase of MAUI WOWI Products and Equipment from our Affiliate will represent approximately 40 percent to 90 percent of your total cost of establishing your MAUI WOWI Business, depending upon the business model you choose to operate, and approximately 30 percent to 40 percent of your cost of operating your MAUI WOWI Business. When you purchase MAUI WOWI Products and MAUI WOWI Supplies and Equipment from our Affiliate, you are charged an additional 12 percent mark-up on each item and this amount is deposited into the Marketing Fund. (See ITEM 11.) You also must pay a royalty of 6 percent and a Marketing Fee of 2 percent on the gross revenue generated by your sale of products that you purchase from alternative sources and non-MAUI WOWI branded items purchased from our Affiliate. (See ITEMS 6 and 11.)

You are prohibited from buying or selling MAUI WOWI Products and MAUI WOWI Supplies and Equipment from or to any other current or former franchisee without notifying us and receiving our written authorization. We may withhold our authorization in our discretion. If you are opening your first Operating Unit under the Franchise Agreement, you must purchase new MAUI WOWI Products and MAUI WOWI Supplies and Equipment from us or our Affiliate for use in that Operating Unit upon opening.

You must purchase computer hardware and other software that meets our minimum specifications. (See ITEM 11.)

If you operate a Retail Store or Fixed Kiosk, or if you operate a Ka'anapali Cart or Event Concession Trailer from a Permanent Site, you are required to participate in our gift card program. All equipment necessary for the gift card program is included in the POS System that you will be required to purchase. If you operate a Ka'anapali Cart or Event Concession Trailer from Events, we reserve the right to require you to participate in our gift card program. (See ITEM 11.)

You must use one or more of our Ka'anapali Carts, Event Concession Trailers, Fixed Kiosks or Retail Stores in the operation of your MAUI WOWI Business or have prior written approval of an alternative facility from us. You are not authorized to sell any MAUI WOWI Products or provide any MAUI WOWI Services using other marketing strategies or distribution channels such as direct sales, wholesale restaurant sales, quick-service food stores, grocery stores, or wholesale or retail outlets, without our prior written approval. If you operate a Retail Store or Fixed Kiosk, you must pay our Affiliate a TurnKey Fee upon signing an Operating Unit Rider to open a Retail Store or Fixed Kiosk and use the services of our designated vendors for locating, developing, and constructing the Operating Unit. (See ITEM 7.) If you operate a Ka'anapali Cart, Event Concession Trailer or Fixed Kiosk, you must purchase the Ka'anapali Cart, Event Concession Trailer or Fixed Kiosk materials upon signing the Operating Unit Rider to open the Operating Unit. (See ITEM 7.)

You must maintain a clean and attractive Operating Unit with prompt and courteous service to the public at all times. You are required to correct any defects, deficiencies, outdated logos and Marks, and unsatisfactory conditions in the appearance, conduct or operation of your MAUI WOWI Business if we ask you to do so and must comply with our Franchise Agreement and our Library of Operating Manuals at all times. (See Franchise Agreement, Sections 7.2, 7.3 and 7.6.) In the operation of your MAUI WOWI Business, your employees will be required to wear a MAUI WOWI uniform as approved by us. We have the right to observe and inspect your operations at your Operating Unit(s) for compliance with the Library of Operating Manuals and for general observations. We reserve the right, in our discretion, to enforce termination of an agreement with you by the landlord of a Permanent Site or the organizer of an Event, and to select an alternate franchise owner to operate at the Permanent Site or Event. As part of the System, we reserve the right, in our discretion, to require you to play music approved by us at your Operating Unit(s).

Other than the requirements above, you are not obligated to purchase or lease any goods, services, supplies, fixtures, equipment, inventory or real estate from us or any other specifically designated source.

All of our revenues are derived from franchise fees. We do not derive any revenue or other material consideration from the sale of products or services to our franchisees, and we do not derive any revenue from real estate leases. However, our Affiliate does receive revenue based on the sale of products and services to our franchisees. During the fiscal year ended December 31, 2006, our Affiliate's revenues from the sale of MAUI WOWI Products and MAUI WOWI Supplies and Equipment to franchisees of ours was \$3,899,666, which represented 86 percent of our Affiliate's total revenue of \$4,525,367. In addition, our Affiliate provides architectural and construction management services for all Single Unit Franchise owners or franchisees operating from Retail Stores. (See ITEM 7). During the fiscal year ended December 31, 2006, our Affiliate's income from TurnKey Fees was \$337,300, which represented less than 7.5 percent of our Affiliate's total revenue. This information was taken from our Affiliate's unaudited financial statements. Other than our Affiliate, no affiliate of ours derived revenues from the sale of any products or services to our licensees, or from the lease of real estate to our franchisees during the fiscal year ended December 31, 2006.

We do not have any purchasing or distribution cooperatives as of the date of this Offering Circular. We do not provide material benefits, such as renewing or granting additional franchises, to franchisees based on their use of designated or approved suppliers. We may negotiate purchase arrangements with other suppliers and distributors for the benefit of our franchisees in the future. We and our Affiliate receive rebates, promotional fees and other financial considerations from product suppliers, including volume purchase discounts. Some of our suppliers pay us to be recognized as a sponsor at our Annual Franchise Owner National Convention.

Except as stated in this ITEM 8, you do not receive a material benefit from us based on your use of any particular designated or approved source.

## 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 THIS AGREEMENT AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

Obligations		Section in Franchise Agreement	ITEM in Offering Circular
a.	Site selection and acquisition/lease	Section 1.3	ITEM 11
b.	Pre-opening purchases/leases	Sections 4.1, 6.1 and 8.1	ITEMS 5 and 7
c.	Site development and other pre-opening requirements	Sections 1.3, 1.4, 3.11 and 4.5	ITEM 11
d.	Initial and ongoing training	Sections 6.1.4, 6.1.5, 6.2.1, 7.8 and 7.9	ITEM 11
e.	Opening	Section 7.16	ITEM 11
f.	Fees	Sections 4.1 - 4.6	ITEMS 5 and 6
g.	Compliance with standards and policies/ Operating Manual	Sections 7.2, 7.3 and 7.6	ITEMS 8 and 11
h.	Trademarks and proprietary information	Sections 3.1 - 3.11	ITEMS 13 and 14
i.	Restrictions on products/services offered	Sections 7.4, 8.2 and 8.4	ITEM 16
j.	Warranty and customer service requirements	Sections 7.6 and 8.3	ITEM 11