

Risk Factors Comparison 2024-03-14 to 2023-03-09 Form: 10-K

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Ownership of our common stock involves certain risks. Holders of our common stock and prospective investors should carefully consider the following risks and other information contained in this document, including our historical financial statements and related notes included herein. The following risk factors could materially adversely affect our business, financial condition and results of operations. This could cause the trading price of our common stock to decline, perhaps significantly, and you may lose part or all of your investment. The risks and uncertainties below are all those that we have identified as material but may not be the only risks and uncertainties facing us. Our business is subject to general risks and uncertainties that affect many other companies, including overall economic and industry conditions. Economic Conditions and Competition Our business is dependent on discretionary spending patterns, business travel and general economic conditions. We depend on consumer discretionary spending, business travel and the overall economic environment. Disruptions in the economy, including recessions, high unemployment, foreclosures, bankruptcies, inflation and other economic impacts, could affect consumers' ability and willingness to spend discretionary dollars. Reductions in business travel and dining, which we believe accounts for a majority of our weekday revenues at our hotel- based restaurants and food and beverage services operations, would adversely affect our revenues. Reductions in discretionary income and spending also would impact our casino- based restaurants and food and beverage services operations. If uncertain economic conditions were to persist for an extended period of time or worsen, consumers might make long- lasting changes to their discretionary spending behavior, including dining out less frequently. Adverse changes in consumer discretionary spending could be affected by many different factors that are out of our control, including international, national and local economic conditions, any of which could harm our business prospects, financial condition, operating results and cash flows. Continued uncertainty in or a worsening of the economy, generally or in a number of our markets, and our customers' reactions to these trends could adversely affect our business and cause us to, among other things, reduce the number and frequency of new ~~location-restaurant~~ location-restaurant openings, close locations and delay any ~~re-modeling~~ re-modeling ~~remodeling~~ remodeling of existing ~~locations-restaurants~~ locations-restaurants. Our success will depend in part upon our ability to anticipate, identify and respond to changing economic and other conditions. We have a limited number of venues, and we operate multiple venues in some cities and are therefore sensitive to economic and other trends and developments in these cities. We have a relatively small number of restaurants and F & B service locations, and we operate multiple venues in some cities. We typically operate one to five venues in the cities where we operate. Accordingly, particularly in cities where we have multiple venues, our business is susceptible to adverse changes in these markets whether as a result of declining economic conditions, declining stock market performance, negative publicity, changes in customer preferences or for other reasons, and any such adverse changes may have a disproportionate effect on our overall results of operations compared to some of our competitors that may have less restaurant concentration or that do not operate in our markets. Any regional occurrences such as local labor strikes, natural disasters, prolonged inclement weather, acts of terrorism or other national emergencies, accidents, energy shortages, system failures or other unforeseen events in or around these cities could result in temporary or permanent closings of our venues, which could have a material adverse effect on our business, financial condition and results of operations as a whole. Competition in the restaurant industry is intense. The restaurant and hospitality industry is intensely competitive with respect to price, quality of service, location, ambiance of facilities and type and quality of food. The industry is also characterized by the continual introduction of new concepts and is subject to rapidly changing consumer preferences, tastes, trends and eating and purchasing habits. Our success depends in part on our ability to anticipate and respond quickly to changing consumer preferences, and other factors affecting the restaurant and hospitality industry, including new market entrants and demographic changes. Shifts in consumer preferences away from upscale steakhouses or beef in general, which are significant components of our concepts' menus and appeal, whether as a result of economic, competitive or other factors, could adversely affect our business and results of operations. A substantial number of national and regional restaurant chains, as well as independently owned restaurants, compete with us for customers, restaurant locations and qualified management and other restaurant staff. There is also competition from non- steak but upscale and high- energy restaurants, and other high- end hospitality services companies and high- energy nightlife concepts. To the extent that our restaurants and F & B hospitality services operations are in hotels, casinos, resorts and similar ~~client~~ client locations, we are subject to competition in the broader lodging and hospitality markets that could draw potential customers away from our locations. Some of our competitors have greater financial, marketing and operating resources than we do, have been in business longer, have greater name recognition and are better established in the markets where our restaurants and F & B hospitality services operations are located or where we may expand. In addition, improved product offerings in the fast casual segment of the restaurant industry, combined with the effects of negative economic conditions and other factors, may lead consumers to choose less expensive alternatives. Our inability to compete successfully with other restaurants, other F & B hospitality services operations and other segments of the industry may harm our ability to maintain acceptable levels of revenue growth, limit our development of new restaurants or concepts, or force us to close one or more of our restaurants or F & B hospitality services operations. ~~We~~ 8~~We~~ may also need to evolve our concepts to compete with popular new restaurant or F & B hospitality services operation formats, concepts or trends that emerge from time to time, and we cannot provide any assurance that any changes we make to any of our concepts in response will be successful or not adversely affect our profitability. Health and ~~Safety~~ SafetyHealth ~~Safety~~ Safety ~~The COVID-19 pandemic has had a significant effect on our restaurant traffic and our business, financial condition and results of operations. The COVID-19 pandemic significantly affected our business and results. We incurred COVID-19 related costs of \$ 2. 5 million and \$ 5. 8 million in 2022 and 2021, respectively.~~

~~We have made operational changes to adhere to government requirements on safety and sanitation in our restaurants. However, we cannot guarantee that changes to our operational policies and training will be effective to keep our employees and customers safe from COVID-19. COVID-19 may impact the willingness of customers to dine outside of the home. While it is not possible at this time to estimate the full impact that COVID-19 could have on our business going forward, the spread of the virus and the measures taken by governments or by us in response could adversely impact our business, financial condition and results of operations.~~ Health concerns arising from outbreaks of flu viruses or other diseases, or regional or global health pandemic **pandemics** could severely affect our business. The United States and other countries have experienced, or may experience in the future, outbreaks of viruses, such as coronavirus, norovirus, Avian Flu or “SARS,” and H1N1 or “swine flu,” or other diseases such as bovine spongiform encephalopathy, commonly known as “mad cow disease.” If a virus is transmitted by human contact, our employees or customers may become infected, or may choose, or be advised, to avoid gathering in public places, any of which may adversely affect the guest traffic at our restaurants and the ability to adequately staff our restaurants, receive deliveries on a timely basis or perform functions at the corporate level. We also may be adversely affected if jurisdictions in which we have restaurants impose mandatory closures, seek voluntary closures or impose restrictions on operations. Even if such measures are not implemented and a virus or other disease does not spread significantly, the perceived risk of infection or significant health risk may adversely affect our business. ~~8To-~~ **To** the extent that a virus or disease is food-borne, or perceived to be food-borne, future outbreaks may adversely affect the price and availability of certain food products and cause our customers to eat less of ~~a such product~~ **products**. For example, health concerns relating to the consumption of beef or to specific events such as the outbreak of “mad cow disease” may adversely impact sales of our beef-related menu items. In addition, public concern over “avian flu” may cause fear about the consumption of chicken, eggs and other products derived from poultry. The inability to serve beef or poultry-based products would restrict our ability to provide a variety of menu items to our customers. If we change our menu in response to such concerns, we may lose customers who do not prefer the new menu, and we may not be able to sufficiently attract new customers to produce the revenue needed to restore the profitability of our restaurant operations. We also may generate different or additional competitors for our intended customers as a result of such a menu change and may not be able to successfully compete against such competitors. Failure to protect food supplies and adhere to food safety standards could result in food-borne illnesses and adversely affect our business. Failure to protect our food supply or enforce food safety policies, such as proper food temperature and adherence to shelf-life dates, could result in food-borne illnesses to our guests. Also, our reputation of providing high-quality food is an important factor in our guests choosing our restaurants. Whether or not traced to our restaurants or those of our competitors, instances of food-borne illness or other food safety issues could reduce the demand for certain or all of our menu offerings. If any of our guest become ill from consuming our products, the affected restaurants may be forced to close, and we may be subject to legal liability. An instance of food contamination from one of our restaurants or suppliers could have far-reaching effects, as the contamination, or the perception of contamination could affect any or all of our restaurants. Publicity related to either product contamination, recalls, or food-borne illness, including Bovine Spongiform Encephalopathy, which is also known as BSE or mad cow disease, aphthous fever, which is also known as hoof and mouth disease, and hepatitis A, listeria, salmonella and e-coli may also injure our brand and may affect the selection of our restaurants by our guests or licensees based on fear of such illnesses. In addition, the occurrence of food-borne illnesses or food safety issues could also adversely affect the price and availability of affected ingredients, which could result in disruptions in our supply chain and / or lower margins for us and our licensees. Labor and Supplies Changes to wage, immigration and labor laws could increase our costs substantially. Under the minimum wage laws in most domestic jurisdictions, we are permitted to pay certain hourly employees a wage that is less than the base minimum wage because these employees receive tips as a substantial part of their income. As of December 31, ~~2022~~ **2023**, approximately ~~34~~ **33** % of our employees earn this lower minimum wage in their respective locations since tips constitute a substantial part of their income. If cities, states or the federal government change their laws to require all employees to be paid the general employee minimum base wage regardless of supplemental tip income, our labor costs would increase substantially. Certain states in which we operate restaurants also have adopted or are considering adopting minimum wage statutes that exceed the federal minimum wage. We may be unable or ~~unwilling~~ **unwilling** to increase our prices to pass these increased labor costs on to our customers, in which case, our business and results of operations could be adversely affected. A restaurant company employer may claim a credit against the company’s federal income taxes for FICA taxes paid on certain tip wages (the “FICA tip credit”). We utilize the federal FICA tip credit to reduce our federal income tax expense. Changes in the tax law could reduce or eliminate the FICA tip credit, which could negatively impact our results of operations and cash flows in future periods. Further, the U. S. Congress and Department of Homeland Security may implement changes to federal immigration laws, regulations or enforcement programs. Some of these changes may increase our obligations for compliance and oversight, which could subject us to additional costs and make our hiring process more cumbersome or reduce the availability of potential employees. Even if we operate our restaurants in strict compliance with U. S. Immigration and Customs Enforcement and state requirements, some of our employees may not meet federal work eligibility or residency requirements, which could lead to a disruption in our work force. Although we require all of our new employees to provide us with the government-specified documentation evidencing their employment eligibility, some of our employees may, without our knowledge, be unauthorized workers. Unauthorized workers are subject to seizure and deportation and may subject us to fines, penalties or loss of our business license in certain jurisdictions. Additionally, a government audit could result in a disruption to our workforce or adverse publicity that could negatively impact our brand and our use of E-Verify and / or potential for receipt of letters from the Social Security Administration requesting ~~9information-~~ **information** (commonly referred to as no-match letters) could make it more difficult to recruit and / or retain qualified employees. Potential changes in labor laws or increased union recruiting activities could result in portions of our workforce being subjected to greater organized labor influence. Although we do not currently have any unionized employees, labor legislation could have an adverse effect on our business and financial results by

imposing requirements that could potentially increase our costs, reduce our flexibility and impact our ability to service our customers. In addition, a labor dispute involving some or all of our employees could harm our reputation, disrupt our operations and reduce our revenues and resolution of **such** disputes may increase our costs. The loss of key personnel or difficulties recruiting and retaining qualified personnel could adversely affect our business and financial results. Our success depends substantially on the contributions and abilities of key executives and other employees, and on our ability to recruit and retain high- quality employees to work in and manage our restaurants. We must continue to recruit, retain and motivate management and other employees sufficient to maintain our current business and support our projected growth. A loss of key employees or a significant shortage of high- quality restaurant employees to maintain our current business and support our projected growth could adversely affect our business and financial results. The restaurant industry has faced labor challenges coming out of the COVID- 19 pandemic. Although, we have been able to fully staff our restaurants in this challenging labor environment, there is no assurance that we will be able to continue to effectively manage our employee base and avoid a labor shortage. We occupy most of our restaurants and some of our food and beverage hospitality services locations under long- term non- cancelable leases under which we may remain obligated to perform even if we close those operations, and we may be unable to renew leases at the end of their terms. Most of our restaurants and some of our food and beverage hospitality operations are located in premises that we lease. Many of our current leases are non- cancelable and typically have terms ranging from 10 to 15 years with renewal options for terms ranging from ~~1 to 5~~ **to 10** years. We believe that future leases that we enter into will be on substantially similar terms. Fixed payments and / or minimum percentage rent payments under our operating leases and management agreements account for a significant portion of our operating expenses. This may increase our vulnerability to general adverse economic and industry conditions, limit our ability to obtain additional financing, and limit our flexibility in planning for or reacting to changes in our business. We primarily depend on cash flow from operations to pay our obligations and to fulfill our other cash needs. If our business does not generate sufficient cash flow from operating activities and sufficient funds are not otherwise available to us from borrowings under our credit facility or other sources, we may not be able to meet our operating lease and **management** ~~10management~~ agreement obligations, grow our business, respond to competitive challenges or fund our other liquidity and capital needs, which could adversely affect our business and results of operations. If we were to close or fail to open a restaurant ~~or other venue at a location we lease~~, we would generally remain committed to perform our obligations under the applicable lease, which could include, among other things, payment of the base rent for the balance of the lease term. Our obligation to continue making ~~rental~~ **rent** payments and fulfilling other lease obligations in respect of leases for closed or unopened restaurants could have a material adverse effect on our business and results of operations. Alternatively, at the end of the lease term and any renewal period for a restaurant, we may be unable to renew the lease without substantial additional cost, if at all. If we cannot renew such a lease we may be forced to close or relocate a restaurant, which could subject us to construction and other costs and risks. Additionally, negative effects on our existing and potential landlords due to the inaccessibility of credit and other unfavorable economic factors may adversely affect our business and results of operations. If our landlords are unable to obtain financing or remain in good standing under their existing financing arrangements, they may be unable to provide construction contributions or satisfy other lease covenants to us. If any landlord files for bankruptcy protection, the landlord may be able to reject our lease in the bankruptcy proceedings. While we would under some circumstances have the option to retain our rights under the lease, we could not compel the landlord to perform any of its obligations and would be left with damages (which are subject to collectability risk) as our sole recourse. Our development of new ~~locations~~ **restaurants** may also be adversely affected by the negative financial situations of potential developers, landlords and host sites. Such parties may delay or cancel development projects or renovations of existing projects due to the instability in ~~the~~ **the** credit markets and economic uncertainty. This could reduce the number of high- quality locations available that we would consider for ~~our new operations~~ **restaurants** or cause the quality of the sites in which the restaurants and food and beverage hospitality services operations are located to deteriorate. Any of these developments could have an adverse effect on our existing businesses or cause us to curtail new projects. We depend upon frequent deliveries of food, alcohol and other supplies, which subjects us to the possible risks of shortages, interruptions and price fluctuations. Our ability to maintain consistent quality throughout our locations depends in part upon our ability to acquire fresh, quality products, including beef, seafood, produce and related items, from reliable sources in accordance with our specifications. We currently purchase our food products from various suppliers. We have elected to purchase our beef from a limited number of suppliers. If there were any shortages, interruptions or significant price fluctuations in beef or seafood or if our suppliers were unable to perform adequately or fail to distribute products or supplies to our restaurants, or terminate or refuse to renew any contract with us, this could cause a short- term increase ~~of in~~ **of in** our costs or cause us to remove certain items from our menu, increase the price of certain offerings or temporarily close a location, which could adversely affect our business and results of operations. In addition, we purchase beer, wine and spirits from distributors who own the exclusive rights to sell such alcoholic beverage products in the geographic areas in which our ~~locations~~ **restaurants operate**. Our continued ability to purchase certain brands of alcoholic beverages depends upon maintaining our relationships with those distributors, of which there can be no assurance. If any of our alcohol beverage distributors cease to supply us, we may be forced to offer brands of alcoholic beverage which have less consumer appeal or that do not match our brand image, which could adversely affect our business and results of operations. Increases in commodity prices would adversely affect our results of operations. Our profitability depends in part on our ability to anticipate and react to changes in commodity costs, which have a substantial effect on our total costs. The purchase of beef represents approximately ~~23~~ **25** % of our food and beverage costs. The market for beef is subject to extreme price fluctuations due to seasonal shifts, climate conditions, the price of feed, industry demand, energy demand and other factors. Our ability to forecast and manage our commodities could significantly affect our gross margins. Energy prices can also affect our operating results because increased energy prices may cause increased transportation costs for beef and other commodities and supplies, and increased costs for the utilities required to run each ~~location~~ **restaurant**. Historically we have passed increased commodity and other costs on to our

customers by increasing the prices of our menu items. While we believe these price increases have historically not affected customer traffic, there can be no assurance that additional price increases would not affect future customer traffic. If prices increase in the future and we are unable to anticipate or mitigate these increases, or if there are shortages for beef, our business and results of operations would be adversely affected. ~~Strategy 11~~ **Strategy** and Operations Unsuccessful implementation of any or all of the initiatives of our business strategy, including opening new restaurants and attracting new F & B hospitality service opportunities, could negatively impact our operations. One key element of our growth strategy is opening new restaurants and F & B hospitality services locations. We believe there are opportunities to ~~open~~ **add** approximately seven to twelve new locations (restaurants and / or hospitality services operations) annually, with a focus on operating under licensing or management agreements (referred to as our “ capital light strategy ”). However, there can be no assurance that we will be able to open new restaurants or F & B hospitality services locations at the rate that we currently expect. Our success in growing our business through the opening of new restaurants and F & B hospitality locations is dependent upon a number of factors, including our ability to: cost- effectively operate in markets that we are not familiar with, find suitable license and food and beverage partners, find suitable locations, reach acceptable lease terms, ~~have~~ **maintain** adequate capital, find ~~acceptable~~ **qualified** contractors, obtain licenses and permits, manage construction and development costs, recruit and train appropriate staff and properly manage the new venue. Unanticipated costs or delays in the development or construction of future restaurants could impede our ability to open new restaurants timely and cost- effectively, which could have a negative impact on our business, financial condition and results of operations. Specifically, some of the factors that adversely affect the cost and time associated with the development and construction of our restaurants include: labor disputes, shortages of materials or skilled labor, adverse weather conditions, unforeseen engineering ~~problems~~ **problems**, environmental problems, construction or zoning problems, local government regulations, modifications in design, and other unanticipated increases in cost. Additionally, our ~~venues~~ **restaurants** are expensive to build, and we, our managed unit partners and our licensees incur significant capital and pre- opening ~~expense~~ **expenses**. Our business and profitability may be adversely affected if the “ ramp- up ” period for a new location lasts longer than we expect or if the profitability of a new location dips after our initial “ ramp- up ” marketing program ends. New locations may not be profitable, and their sales performance may not follow historical or projected patterns. If we are forced to close any new ~~operations~~ **restaurants**, we will incur losses for certain buildout costs and pre- opening expenses incurred in connection with opening such operations. We face a variety of risks associated with doing business with licensees. We rely in part on our licensees and the manner in which they operate the STK restaurants to develop and promote our business. As of December 31, ~~2022~~ **2023**, we had five licensed STK restaurants. Our licensees are required to operate our restaurants according to the specific guidelines we set forth, which are essential to maintaining brand integrity and reputation, as well as in accordance with all laws and regulations applicable to us, and all laws and regulations applicable in the countries in which we operate. We provide training to these licensees to integrate them into our operating strategy and culture. However, since we do not have day- to- day control over ~~all of~~ these restaurants, we cannot give assurance that there will not be differences in product and service quality, operations, labor law enforcement, marketing or profitability or that there will be adherence to all of our guidelines and applicable laws. In addition, if our licensees fail to make investments necessary to maintain or improve the restaurants, guest preference for our brand could suffer. Our licensees are subject to business risks similar to those we face such as competition; customer acceptance; fluctuations in the cost, quality and availability of raw ingredients; increased labor costs; difficulty obtaining acceptable site leases; and difficulty obtaining proper financing. Failure of licensed restaurants to operate effectively could adversely affect our cash flows from those operations or have a negative impact on our reputation and our business. The success of our licensed ~~operations~~ **restaurants** depends on our ability to establish and maintain good relationships with our licensees. The value of our brand and the rapport that we maintain with our licensees are important factors for potential licensees considering doing business with us. If we are unable to maintain good relationships with licensees, we may be unable to renew license agreements and opportunities for developing new relationships with additional licensees may be adversely affected. This, in turn, could have an adverse effect on our results of operations. Although we have developed criteria to evaluate and screen prospective developers and licensees, we cannot be certain that the developers and licensees we select will have the business acumen necessary to open and operate successful licensed restaurants in their ~~licensing~~ **licensed** areas, or that the licensees, once selected, will be able to negotiate acceptable lease or purchase terms for prospective sites or to obtain the necessary approvals for such sites, or that financing will be available to construct and open new venues. ~~To~~ **To** the extent that our operations are located in hotels, casinos or similar destinations, our results of operations and growth are subject to the risks facing such venues. Our ability to grow and realize profits from our operations in hotels, casinos and other branded or destination venues are dependent on the success of such venues’ business. We are subject to the actions and business decisions of our ~~clients~~ **partners** and third parties, in which we may have little or no influence in the overall operation of the applicable venue and such actions and decisions could have an adverse effect on our business and operations. Litigation and Brand Risk We face the risk of adverse publicity in connection with our operations, including as a result of increased social media usage. The quality of our food and ~~ambiance of our facilities~~ **restaurants** are two of our competitive strengths. Therefore, adverse publicity, whether accurate or not, relating to food quality, public health concerns, illness, safety, injury or government or industry findings concerning our venues or those operated by others could negatively impact us. Any shifts in consumer preferences away from the kinds of food we offer, particularly beef, whether because of dietary or health ~~reasons~~ **reasons**, ~~sustainability~~ **sustainability** concerns or otherwise, would make our ~~locations~~ **restaurants** less appealing and could reduce customer traffic and / or impose practical limits on pricing. ~~The~~ **The** use of social media platforms allows individuals to access a broad audience of consumers and other interested persons. Consumers value readily available information concerning goods and services that they have or plan to purchase and may act on such information without further investigation or authentication. Many social media platforms immediately publish content from their subscribers and participants, often without filters or checks on the accuracy of the content posted. Information concerning our company may be posted on such platforms at any time. If

customers perceive or experience a reduction in our food quality, service or ambiance or in any way believe we have failed to deliver a consistently positive experience, this information can be immediately and broadly disseminated. This information may be adverse to our interests or may be inaccurate, each of which may harm our performance, prospects or business. We face the risk of litigation in connection with our operations. We are, from time to time, the subject of complaints or litigation from our consumers alleging, among other things, illness, injury or other food quality, health or operational concerns. The inappropriate use of social media by our employees or customers could lead to litigation and result in negative publicity that could damage our reputation. In addition, third party and employee claims against us based on, among other things, alleged discrimination, harassment or wrongful termination, or labor code violations may divert financial and management resources that would otherwise be used to benefit our future performance. Regardless of whether any claims against us are valid or whether we are liable, **such** claims may be expensive to defend and may divert time and money away from our operations. In addition, they may generate negative publicity, which could reduce customer traffic and sales. Although we maintain what we believe to be adequate levels of insurance commensurate with the nature and extent of our operations, insurance may not be available at all or in sufficient amounts to cover any liabilities with respect to these matters. A significant increase in the number of these claims or in the number of such claims that are successful could materially adversely affect our brand, financial condition or operating results. Like most employee practices liability insurance policies, our policy does not provide protection against **wage and hour and wage** claims, and therefore litigation in **the this** area could adversely impact our financial condition. We may not be able to protect our brands, trademarks, service marks or other proprietary rights. We have registered, or have applications pending to register, the trademarks STK, Kona Grill and Konavore with the United States Patent and Trademark Office and in certain foreign countries in connection with restaurant services. Our brands, which include our trademarks, service marks and other intellectual property and proprietary rights, are important to our success and our competitive position. In that regard, we believe that our trade names, trademarks and service marks are valuable assets that are critical to our success. Accordingly, we devote substantial resources to the establishment and protection of our brands. However, the actions we take may be inadequate to prevent imitation of our products and concepts by others, to prevent various challenges to our registrations or applications or denials of applications for the registration of trademarks, service marks and proprietary rights in the U. S. or other countries, or to prevent others from claiming violations of their trademarks and proprietary marks. In addition, others may assert rights **in 13in** our trademarks, service marks and other proprietary rights or may assert that we are infringing rights they have in their trademarks, service marks, patents or other proprietary rights. Any such disputes could force us to incur costs related to enforcing our rights. In addition, the use of trade names, trademarks or service marks similar to ours in some markets may keep us from entering those markets. Each of our intellectual property marks is pledged as collateral securing our credit and guaranty agreement with Goldman Sachs Bank USA (“Goldman Sachs”). Default under these agreements could enable Goldman Sachs to sell (at auction or otherwise) our trademarks, which would have a material adverse effect on our ability to continue our business. **Cybersecurity and IT Systems Security breaches, loss of data and other disruptions could compromise sensitive information related to our business, prevent us from accessing critical information or expose us to liability, which could adversely affect our business and our reputation. We utilize information technology systems and networks to process, transmit and store electronic information in connection with our business activities. As the use of digital technologies has increased, cyber incidents, including deliberate attacks and attempts to gain unauthorized access to computer systems and networks, have increased in frequency and sophistication. These threats pose a risk to the security of our systems and networks and the confidentiality, availability and integrity of our data, all of which are vital to our operations and business strategy. There can be no assurance that we will be successful in preventing cyber- attacks or successfully mitigating their effects. We estimate that approximately 80 % of our sales are by credit or debit cards. Other restaurants and retailers have experienced security breaches in which credit and debit card information has been stolen. We may in the future become subject to claims for purportedly fraudulent transactions arising out of the actual or alleged theft of credit or debit card information, and we may also be subject to lawsuits or other proceedings relating to these types of incidents. The scope and severity of risks posed to our systems from cyber threats has increased. Many of our information technology systems, including those used for our point- of- sale, delivery services and administrative functions, contain personal, financial or other information that is entrusted to us by our guests, vendors and employees. Many of our information technology systems also contain confidential information about our business, such as business strategies, development initiatives and designs. To date, these attacks have not had a material impact on our operations, but we cannot provide assurance that they will not have an impact in the future. Our third- party providers’ information technology systems and databases are likewise subject to such risks. We provide some guest and employee data, as well as confidential information important to our business, to third parties to conduct our business. Individuals performing work for us and these third parties also may access some of this data, including on personally owned digital devices. To the extent we, a third party or such an individual were to experience a breach of our or their information technology systems that results in the unauthorized access, theft, use, destruction or other compromises of customers’ or employees’ data or confidential information stored in or transmitted through such systems, it could result in a material loss of revenues from the potential adverse impact to our reputation and brand, a decrease in our ability to retain customers or attract new ones, the imposition of potentially significant costs (including loss of data or payment for recovery of data), loss of business, disruption to our supply chain, business and plans. Unauthorized access, theft, use, destruction or other compromises are becoming increasingly sophisticated and may occur through a variety of methods, including attacks using malicious code, vulnerabilities in software, hardware or other infrastructure (including systems used by our supply chain), system misconfigurations, phishing or social engineering. The rapid evolution and increased adoption of artificial intelligence technologies may intensify our cybersecurity risks. Our logging capabilities, or the logging capabilities of third parties, are not always complete or sufficiently granular, affecting our ability to fully understand the scope of**

security breaches. We rely heavily on information technology systems and failures or interruptions in our IT systems could harm our ability to effectively operate our business and / or result in the loss of guests or employees. We rely heavily on information technology systems, including the point-of-sale and payment processing system in our restaurants, technologies supporting our digital and delivery services business, technologies that manage our supply chain, our rewards program, technologies that facilitate marketing initiatives, employee engagement and payroll processing, and various other processes and transactions. Our ability to effectively manage our business and coordinate the procurement, production, distribution, safety and sale of our products depends significantly on the availability, reliability and security of these systems. Many of these critical systems are provided and managed by third parties, and we are reliant on these third-party providers to implement protective measures that ensure the security and availability of their systems. Although we have operational safeguards in place, these safeguards may not be effective in preventing the failure of these third-party systems or platforms to operate effectively and be available. Failures may be caused by various factors, including power outages, catastrophic events, physical theft, computer and network failures, inadequate or ineffective redundancy, problems with transitioning to upgraded or replacement systems or platforms, flaws in third-party software or services, errors or improper use by our employees or the third-party service providers. If any of our critical IT systems were to become unreliable, unavailable, compromised or otherwise fail, and we were unable to recover in a timely manner, we could experience an interruption in our operations that could have a material adverse impact on our profitability.

Other Risks Our operations may be negatively impacted by seasonality, adverse weather conditions, natural disasters or acts of terror. Our business is subject to seasonal fluctuations, adverse weather conditions and natural disasters that may at times affect the regions in which our restaurants and F & B hospitality services operations are located, regions that supply or produce food products for our restaurants, or locations of our distribution network. As a result of the seasonality of our business due to weather, holiday events and other factors, our quarterly results for any one quarter or fiscal year may not be indicative of results to be expected for any other quarter or for any year. In addition, if adverse weather conditions or natural disasters such as fires and hurricanes affect our restaurants, we could experience closures, repair and restoration costs, food spoilage, and other significant reopening costs, any of which would adversely affect our business. We could also experience shortages or delayed shipments at our restaurants if adverse weather or natural disasters affect our distribution network, which could adversely affect our restaurants and our business as a whole. Additionally, during periods of extreme temperatures (either hot or cold) or precipitation, we may experience a reduction in customer traffic, which could adversely affect our restaurants and our business as a whole. Weather conditions are impossible to predict as is the negative impact on our business that such conditions might cause. Catastrophic weather conditions are likely to affect the supply of and costs for food products. If we do not anticipate or react to changing food costs by adjusting our purchasing practices or menu prices, our operating margins would likely deteriorate. Terrorism, including cyber-terrorism or efforts to tamper with food supplies, could have an adverse impact on our brand and results of operations.

Security breaches, loss of data and other disruptions could compromise sensitive information related to our business, prevent us from accessing critical information or expose us to liability, which could adversely affect our business and our reputation. We utilize information technology systems and networks to process, transmit and store electronic information in connection with our business activities. As the use of digital technologies has increased, cyber incidents, including deliberate attacks and attempts to gain unauthorized access to computer systems and networks, have increased in frequency and sophistication. These threats pose a risk to the security of our systems and networks and the confidentiality, availability and integrity of our data, all of which are vital to our operations and business strategy. There can be no assurance that we will be successful in preventing cyber attacks or successfully mitigating their effects. We estimate that approximately 80 % of our sales are by credit or debit cards. Other restaurants and retailers have experienced security breaches in which credit and debit card information has been stolen. We may in the future become subject to claims for purportedly fraudulent transactions arising out of the actual or alleged theft of credit or debit card information, and we may also be subject to lawsuits or other proceedings relating to these types of incidents. Further, in 2015, the major credit card networks shifted the liability associated with EMV (Europay / Mastercard / Visa) chip card technology to the merchants. With this liability shift, any restaurant or merchant that is not using an approved chip-and-pin point-of-sale device would be liable for counterfeit or fraudulent charges. Despite the implementation of security measures (such as the employment of internal resources and external consultants to conduct auditing and testing for weaknesses in our informational technology environment), our internal computer systems and those of our third-party contractors and consultants are vulnerable to damage or disruption from hacking, computer viruses, software bugs, unauthorized access or disclosure, natural disasters, terrorism, war, and telecommunication, equipment and electrical failures. There can be no assurance that we will promptly detect any such disruption or security breach, if at all. Unauthorized access, loss or dissemination could disrupt our operations, our ability to process and prepare company financial information, and manage various general and administrative aspects of our business. To the extent that any such disruption or security breach results in a loss of or damage to our data or applications, or inappropriate disclosure or theft of confidential, proprietary or personal information, we could incur liability, suffer reputational damage or poor financial performance or become the subject of regulatory actions by state, federal or non-US authorities, any of which could adversely affect our business.

We are subject to numerous and changing U. S. federal and foreign government regulations. Failure to comply with or substantial changes in government regulations could negatively affect our sales, increase our costs or result in fines or other penalties against us. Each of our venues is subject to licensing and regulation by the health, sanitation, safety, labor, building environmental (including disposal, pollution, and the presence of hazardous substances) and fire agencies of the respective states, counties, cities, and municipalities in which it is located, as well as under federal law. These regulations govern the preparation and sale of food, the sale of alcoholic beverages, the sale and use of tobacco, zoning and building codes, land use and employee, health, sanitation and safety matters. Alcoholic beverage control regulations govern various aspects of our **locations** **restaurants** daily operations, including the minimum age of patrons and employees, hours of

operation, advertising, wholesale purchasing and inventory control, handling and storage. Typically, our ~~locations~~ **restaurants** licenses to sell alcoholic beverages must be renewed annually and may be suspended or revoked at any time for cause. A failure to comply with one or more regulations could result in the imposition of sanctions, including the closing of ~~14 venues~~ **venues** for an indeterminate period of time, or third-party litigation, any of which could have a material adverse effect on us and our results of operations. ~~Government regulation can also affect customer traffic at our locations. A number of states, counties and cities have enacted menu labeling laws requiring multi-unit restaurant operators to disclose certain nutritional information. For example, the Affordable Care Act establishes a uniform, federal requirement for restaurant chains with 20 or more locations operating under the same trade name and offering substantially the same menus to post nutritional information on their menus, including the total number of calories. The law also requires such restaurants to provide to consumers, upon request, a written summary of detailed nutritional information, including total calories and calories from fat, total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, dietary fiber, and total protein in each serving size or other unit of measure, for each standard menu item. The Food and Drug Administration is also permitted to require additional nutrient disclosures, such as trans-fat content. Our compliance with the Affordable Care Act or other similar laws to which we may become subject could reduce demand for our menu offerings, reduce customer traffic and / or reduce average revenue per customer, which would have an adverse effect on our revenue. Any reduction in customer traffic related to these or other government regulations could affect revenues and adversely affect our business and results of operations.~~ Our foreign operations are subject to all of the same risks as our domestic restaurants and food and beverage hospitality services operations, and additional risks that include, among others, international economic and political conditions and the possibility of instability and unrest, differing cultures and consumer preferences, diverse government regulations and tax systems, the ability to source fresh ingredients and other commodities in a cost-effective manner and the availability of experienced management. ~~We~~ **15We** are subject to governmental regulation in the domestic and international jurisdictions where we operate, including antitrust and tax requirements, anti-boycott regulations, import / export / customs regulations and other international trade regulations, the USA PATRIOT Act and the Foreign Corrupt Practices Act. Any new regulatory or trade initiatives could impact our operations in certain countries. Failure to comply with any such legal requirements could subject us to monetary liabilities and other sanctions, which could harm our business, results of operations and financial condition. We may not be able to comply with certain debt covenants on our debt. Our credit agreement requires us to achieve specified financial and operating results and maintain compliance with specified financial ratios. Our ability to comply with these provisions may be affected by events beyond our control, ~~including the effects on our business of COVID-19 and related government actions and consumer behavior.~~ If we were to default under our covenants and such default were not cured or waived, our indebtedness could become immediately due and payable. If we breach these covenants and fail to comply with the credit agreement, and the lenders accelerate the amounts outstanding, our business and results of operations would be adversely affected. In addition, our ability to borrow under our revolving credit facility depends on several factors, including compliance with specified leverage incurrence ratios. If we are not able to borrow under our revolving credit facility ~~to bridge losses we incur while our operations are affected by the COVID-19 pandemic,~~ and if alternative financing is not available to us on acceptable terms or at all, our business and results of operations would be adversely affected. Failure of our internal controls over financial reporting could harm our business and financial results. Our management is responsible for establishing and maintaining effective internal control over financial reporting. Internal control over financial reporting is a process to provide reasonable assurance regarding the reliability of financial reporting for external purposes in accordance with accounting principles generally accepted in the United States. Because of its inherent limitations, internal control over financial reporting is not intended to provide absolute assurance that we would prevent or detect a misstatement of our financial statements or fraud. Any failure to maintain an effective system of internal control over financial reporting could limit our ability to report our financial results accurately and timely or to detect and prevent fraud. A significant financial reporting failure or material weakness in internal control over financial reporting could cause a loss of investor confidence and decline in the market price of our stock. We cannot be certain that we will be able to maintain adequate controls over our financial processes and reporting. Refer to Part II — Item 9A, “ Controls and Procedures ” of this Annual Report on Form 10-K for management’s assessment as of December 31, ~~2022~~ **2023**. ~~Any failure to maintain an effective system of internal control over financial~~ **15-reporting could limit our ability to report our financial results accurately and timely or to detect and prevent fraud. A significant financial reporting failure or material weakness in internal control over financial reporting could cause a loss of investor confidence and decline in the market price of our stock, and we could be subject to sanctions or investigation by regulatory authorities, such as the SEC or Nasdaq. Insiders have substantial control over us, and they could delay or prevent a change in our corporate control even if our other stockholders wanted it to occur. Our executive officers, directors, and principal stockholders hold a significant percentage of our outstanding common stock. Accordingly, these stockholders are able to control or have a significant impact on all matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. This could delay or prevent an outside party from acquiring or merging with us even if our other stockholders affirmed such action. In addition, such concentrated control may adversely affect the price of our common stock and sales by our insiders or affiliates, along with any other market transactions, could affect the market price of our common stock. Provisions in our amended and restated certificate of incorporation, our bylaws and Delaware law may inhibit a takeover of us, which could limit the price investors might be willing to pay in the future for our common stock and could entrench management. Our amended and restated certificate of incorporation and our bylaws contain provisions that may discourage unsolicited takeover proposals that stockholders may consider to be in their best interests. Our Board of Directors (the “ Board ”) is divided into three classes, each of which generally serve for a term of three years with only one class of directors being elected each year. As a result, at a given annual meeting, only a minority of the Board may be considered for election. Since our staggered Board may prevent our stockholders from**

replacing a majority of our Board at any 16