

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

RED ROBIN GOURMET BURGERS, INC.

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

84-1573084  
(I.R.S. Employer  
Identification No.)

10000 E. Geddes Avenue, Suite 500  
Englewood, CO 80112  
(Address of principal executive offices)

80112  
(Zip code)

G.J. Hart  
President and Chief Executive Officer  
10000 E. Geddes Avenue, Suite 500  
Englewood, CO 80112  
(Name and address of agent for service)

(303) 846-6000  
(Telephone number, including area code, of agent for service)

2022 Employment Inducement Grant  
(Full title of the Plan)

Copies to:

David S. Huntington, Esq.  
Paul, Weiss, Rifkind, Wharton & Garrison LLP  
1285 Avenue of the Americas  
New York, New York 10019-6064  
(212) 373-3000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer   
Non-accelerated filer  Smaller reporting company   
Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

EXPLANATORY NOTE

This registration statement is filed by Red Robin Gourmet Burgers, Inc. (the "Company" or "Registrant") to register 45,395 shares of the Company's common stock, par value \$0.001 per share (the "Common Stock") that are reserved for issuance upon the vesting of restricted stock units granted to Todd Wilson, the Company's recently appointed Executive Vice President and Chief Financial Officer (the "Inducement Grant"). The Inducement Grant has been granted outside of the Company's long-term incentive plan as an inducement material to Mr. Wilson entering into employment with the Company in accordance with Nasdaq Listing Rule 5635(c)(4).

PART I

INFORMATION REQUIRED IN THE

## SECTION 10(a) PROSPECTUS

The document(s) containing the information specified in Part I of Form S-8 (plan information and Company information) will be sent or given to employees as specified by Rule 428(b)(1) under the Securities Act of 1933, as amended (the "Securities Act"). Such documents need not be filed with the Securities and Exchange Commission (the "Commission") either as part of this registration statement or as prospectuses or prospectus supplements pursuant to Securities Act Rule 424. These documents, which include the statement of availability required by Item 2 of Form S-8, and the documents incorporated by reference in this registration statement pursuant to Item 3 of Form S-8 (Part II hereof), taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

2

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### PART II

#### INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

##### Item 3. Incorporation of Documents by Reference.

The following documents, previously filed by the Company with the Commission, are hereby incorporated in this registration statement by reference as of their date of filing with the Commission:

- The Company's Annual Report on [Form 10-K](#) for the fiscal year ended December 26, 2021, filed with the Commission on March 10, 2022;
- The Company's Quarterly Report on [Form 10-Q](#) for the quarter ended April 17, 2022, filed with the Commission on May 26, 2022;
- The Company's Quarterly Report on [Form 10-Q](#) for the quarter ended July 10, 2022, filed with the Commission on August 10, 2022;
- The Company's Quarterly Report on [Form 10-Q](#) for the quarter ended October 2, 2022, filed with the Commission on November 2, 2022;
- The Company's Current Reports on Form 8-K filed on [February 3, 2022](#), [March 10, 2022](#) (Film No. 22729009), [May 20, 2022](#), [June 23, 2022](#), [June 29, 2022](#), [July 14, 2022](#), [September 16, 2022](#), [October 31, 2022](#) and [November 3, 2022](#); and;
- The description of the Company's Common Stock contained in its Registration Statement on [Form S-3](#), filed with the SEC on May 29, 2020 (File No. 333-238806), and any other amendment or report filed for the purpose of updating such description.

All other documents filed by the Company pursuant to Sections 13(a), 13(c), 14, or 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") subsequent to the date of this registration statement and prior to the filing of a post-effective amendment to this registration statement indicating that all securities offered under the registration statement have been sold, or deregistering all securities then remaining unsold, are also incorporated herein by reference and shall be a part hereof from the date of the filing of such documents.

Any statement contained in a document incorporated by, or deemed incorporated by reference herein, shall be deemed to be modified or superseded for purposes of this registration statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this registration statement.

II-1

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##### Item 4. Description of Securities.

The Common Stock is registered pursuant to Section 12 of the Exchange Act and, therefore, the description of securities is omitted.

##### Item 5. Interests of Named Experts and Counsel.

Not applicable.

##### Item 6. Indemnification of Directors and Officer.

Section 145 of the Delaware General Corporation Law (the "DGCL") provides that a corporation may indemnify directors and officers as well as other employees and agents against expenses (including attorneys' fees) and (other than in actions by or in the right of the corporation to procure a judgment in its favor) judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending or completed actions, suits or proceedings in which such person is made a party by reason of such person being or having been a director, officer, employee or agent of the registrant. The DGCL provides that Section 145 is not exclusive of other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise. Section 1 of Article VIII of the registrant's Fourth Amended and Restated Bylaws provides for mandatory indemnification by the registrant of its present and former directors and officers and permits indemnification by the registrant of its employees and agents to the fullest extent permitted by the DGCL.

Section 102(b)(7) of the DGCL permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for unlawful payments of dividends or unlawful stock repurchases or redemptions, or (iv) for any transaction from which the director derived an improper personal benefit. The registrant's certificate of incorporation provides that:

*A director of [the Company] shall not be personally liable to [the Company] or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to [the Company] or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit.*

The Company maintains standard policies of insurance under which coverage is provided (a) to its directors and officers against loss arising from claims made by reason of breach of duty or other wrongful act, and (b) to the Company with respect to payments which may be made by the registrant to such officers and directors pursuant to the above indemnification provision or otherwise as a matter of law.

**Item 7. Exemption from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

<u>Exhibit No.</u>	<u>Description</u>
3.1*	<a href="#">Restated Certificate of Incorporation of Red Robin Gourmet Burgers, Inc., dated as of May 28, 2015. Incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K filed on May 29, 2015.</a>
3.2*	<a href="#">Fourth Amended and Restated Bylaws dated May 24, 2012. Incorporated by reference to Exhibit 3.2 to our Quarterly Report on Form 10-Q filed on August 10, 2012 (File No. 001-34851).</a>
II-2	
3.3*	<a href="#">Amendment No. 1 dated February 13, 2013 to Fourth Amended and Restated Bylaws dated May 24, 2012. Incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K filed on February 19, 2013 (File No. 001-34851).</a>
3.4*	<a href="#">Specimen stock certificate. Incorporated by reference to Exhibit 4.1 to Amendment No. 1 of our Registration Statement on Form S-1 filed on June 10, 2002 (Registration No. 333-87044).</a>
5.1	<a href="#">Opinion of Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP.</a>
10.1	<a href="#">Red Robin Gourmet Burgers, Inc. Employment Inducement Award Restricted Stock Unit Grant Agreement</a>
23.1	<a href="#">Consent of Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP (included in Exhibit 5.1).</a>
23.2	<a href="#">Consent of KPMG LLP.</a>
23.3	<a href="#">Consent of Deloitte &amp; Touche LLP.</a>
24.1	<a href="#">Power of Attorney (included on signature page of this registration statement).</a>
107	<a href="#">Filing Fee Table</a>

\* Incorporated herein by reference as indicated

**Item 9. Undertakings.**

(a) The undersigned registrant hereby undertakes:

1. To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
  - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act;
  - (ii) To reflect in the prospectus any facts or events arising after the effective date of this registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in this registration statement.
  - (iii) To include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to section 13 or section 15(d) of the Exchange Act that are incorporated by reference in this registration statement.

2. That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
3. To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

- (b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to section 13(a) or section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Exchange Act) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Greenwood Village, State of Colorado, on this 14th day of November, 2022.

Date: November 14, 2022

**RED ROBIN GOURMET BURGERS, INC.**

By: /s/ G.J. Hart  
 Name: G.J. Hart  
 Title: President and Chief Executive Officer

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints G.J. Hart, Todd Wilson and Jeffrey Hoban and each of them, as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, and to file the same, with all exhibits thereto, and all documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
<u>/s/ G. J. HART</u> G.J. Hart	President and Chief Executive Officer; Director (Principal Executive Officer and Director)	November 14, 2022
<u>/s/ TODD WILSON</u> Todd Wilson	Executive Vice President, Chief Financial Officer (Principal Financial Officer)	November 14, 2022
<u>/s/ CHERI KINDER</u> Cheri Kinder	Chief Accounting Officer (Principal Accounting Officer)	November 14, 2022
<u>/s/ DAVID A. PACE</u> David A. Pace	Chairperson of the Board	November 14, 2022
<u>/s ANTHONY S. ACKIL</u> Anthony S. Ackil	Director	November 14, 2022
<u>/s/ THOMAS G. CONFORTI</u> Thomas G. Conforti	Director	November 14, 2022
<u>/s/ CAMBRIA W. DUNAWAY</u> Cambria W. Dunaway	Director	November 14, 2022
<u>/s/ KALEN F. HOLMES</u> Kalen F. Holmes	Director	November 14, 2022
<u>/s/ STEVEN K. LUMPKIN</u> Steven K. Lumpkin	Director	November 14, 2022
<u>/s/ ALLISON PAGE</u> Allison Page	Director	November 14, 2022
<u>/s/ ANDDRIA VARNADO</u> Anddria Varnado	Director	November 14, 2022

[LETTERHEAD OF PAUL, WEISS, RIFKIND, WHARTON &amp; GARRISON LLP]

212-373-3000

212-757-3990

November 14, 2022

Red Robin Gourmet Burgers, Inc.  
 6312 S. Fiddler's Green Circle  
 Suite 200 N  
 Greenwood Village, CO 80111

Registration Statement on Form S-8

Red Robin Gourmet Burgers, Inc. Inducement Grant to Todd Wilson

Ladies and Gentlemen:

We have acted as special counsel to Red Robin Gourmet Burgers, Inc., a Delaware corporation (the "Company"), in connection with the Registration Statement on Form S-8 (the "Registration Statement") of the Company, filed with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended (the "Act"), and the rules and regulations thereunder (the "Rules"). You have asked us to furnish our

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opinion as to the legality of the securities being registered under the Registration Statement. The Registration Statement relates to the registration under the Act of 45,395 shares (the "Inducement Grant Shares") of the Company's common stock, par value \$0.001 per share, reserved for issuance upon vesting of restricted stock units (the "RSUs") granted to Todd Wilson, the Company's Executive Vice President and Chief Financial Officer.

In connection with the furnishing of this opinion, we have examined originals, or copies certified or otherwise identified to our satisfaction, of the following documents (collectively, the "Documents"):

1. the Registration Statement; and
2. the Restricted Stock Unit Award Agreement between the Company and Todd Wilson relating to the RSUs (the "RSU Agreement").

In addition, we have examined (i) such corporate records of the Company that we have considered appropriate, including a copy of the certificate of incorporation, as amended, and by-laws, as amended, of the Company, certified by the Company as in effect on the date of this letter and copies of resolutions of the board of directors of the Company relating to the issuance of the Inducement Grant Shares, certified by the Company and (ii) such other certificates, agreements and documents as we deemed relevant and necessary as a basis for the opinion expressed below. We have also relied upon the factual matters contained in the representations and warranties of the Company

Red Robin Gourmet Burgers, Inc.

2

made in the Documents and upon certificates of public officials and the officers of the Company.

In our examination of the documents referred to above, we have assumed, without independent investigation, the genuineness of all signatures, the legal capacity of all individuals who have executed any of the documents reviewed by us, the authenticity of all documents submitted to us as originals, the conformity to the originals of all documents submitted to us as certified, photostatic, reproduced or conformed copies of valid existing agreements or other documents, the authenticity of all the latter documents and that the statements regarding matters of fact in the certificates, records, agreements, instruments and documents that we have examined are accurate and complete.

Based upon the above, and subject to the stated assumptions, exceptions and qualifications, we are of the opinion that the Inducement Plan Shares have been duly authorized by all necessary corporate action on the part of the Company and, when issued and delivered in accordance with the terms of the RSU Agreement, the Inducement Plan Shares will be validly issued, fully paid and non-assessable.

Red Robin Gourmet Burgers, Inc.

3

The opinion expressed above is limited to the General Corporation Law of the State of Delaware. Our opinion is rendered only with respect to the laws, and the rules, regulations and orders under those laws, that are currently in effect. We hereby consent to use of this opinion as an exhibit to the Registration Statement. In giving this consent, we do not thereby admit that we come within the category of persons whose consent is required by the Act or the Rules.

Very truly yours,

/s/ Paul, Weiss, Rifkind, Wharton & Garrison LLP  
 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP



**RED ROBIN GOURMET BURGERS, INC.  
EMPLOYMENT INDUCEMENT AWARD  
RESTRICTED STOCK UNIT GRANT AGREEMENT**

**THIS RESTRICTED STOCK UNIT GRANT AGREEMENT** (this “**Agreement**”) between RED ROBIN GOURMET BURGERS, INC. (the “**Company**”) and Todd Wilson (“**Grantee**”) is dated effective November 14, 2022 (the “**Date of Grant**”).

Grantee has been granted an award of 45,395 restricted stock units. These units are restricted until the vest date(s) shown below, at which time you will receive shares of Red Robin Gourmet Burgers, Inc. common stock.

**Vesting Schedule:** This award will vest in accordance with the following:

<u>Shares</u>	<u>Vest Date</u>
15,132	November 14, 2023
15,132	November 14, 2024
15,131	November 14, 2025

**RECITALS**

A. The Board has adopted, and the stockholders have approved, the Red Robin Gourmet Burgers, Inc. 2017 Performance Incentive Plan, as may be amended from time to time (the “**Plan**”);

B. Although this Agreement is not made under the Plan, this Agreement will be granted subject to and in accordance with the terms and conditions of the Plan as if the award were granted under the Plan, to the extent applicable; and

C. The Committee has determined that Grantee is eligible to receive a restricted stock unit award as an inducement award to induce the Grantee to become, and to retain Grantee as, Executive Vice President and Chief Financial Officer of the Company and has determined that it would be in the best interest of the Company to grant the restricted stock unit award provided for herein.

**AGREEMENT**

1. Grant of Restricted Stock Unit.

(a) Award. As an employment inducement award, Grantee is hereby awarded the number of Restricted Stock Units set forth above, each of which represents the right to receive one share of the Company's common stock, \$.001 par value per share (the “**Common Stock**”), subject to the conditions of the Plan and this Agreement (the “**Restricted Stock Units**”). Unless and until the Restricted Stock Units vest, Grantee will have no right to receive shares of Common Stock under such Restricted Stock Units.

(b) Plan Incorporated. Grantee acknowledges receipt of a copy of the Plan, and agrees that this award of Restricted Stock Units shall be subject to all of the terms and conditions set forth in the Plan, including future amendments thereto, if any, pursuant to the terms thereof, which Plan is incorporated herein by reference as a part of this Agreement. Except as defined herein, capitalized terms shall have the same meanings ascribed to them under the Plan.

2. Vesting Schedule: The Restricted Stock Units awarded by this Agreement will vest in accordance with the vesting schedule set forth above. Each date upon which vesting occurs is referred to herein as a “**Vesting**”

1

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Date”. The foregoing notwithstanding, vesting pursuant to the foregoing schedule shall occur on a Vesting Date only if Grantee remains employed by or provides services to the Company from the Date of Grant to such Vesting Date. If Grantee ceases to be employed by or ceases to provide services to the Company at any time prior to the final Vesting Date, all unvested Restricted Stock Units shall be canceled immediately on the date that Grantee's employment or service is terminated and Grantee shall cease to have any right or entitlement to receive any shares of Common Stock under such canceled Restricted Stock Units.

3. Accelerated Vesting of Restricted Stock Units.

(a) As provided in Section 5.3 of the Plan, if a Change in Control occurs, any unvested Restricted Stock Units held by Grantee will become fully vested. However, if Grantee is designated on the Company's payroll records as a Tier 1 or Tier 2 executive or above, or an executive officer, on the date of the Change in Control no Restricted Stock Units will vest solely on account of a Change in Control unless Grantee's employment with the Company is terminated without Cause (as defined below) within the two-year period following such Change in Control.

(b) For purposes of this Agreement, “**Cause**” means that Grantee:

(i) has been negligent in the discharge of his or her duties to the Company or any of its Subsidiaries, has refused to perform stated or assigned duties or is incompetent in or (other than by reason of a disability or analogous condition) incapable of performing those duties;

(ii) has been dishonest or committed or engaged in an act of theft, embezzlement or fraud, a breach of confidentiality, an unauthorized disclosure or use of inside information, customer lists, trade secrets or other confidential information; has breached a fiduciary duty, or willfully and materially violated any other duty, law, rule, regulation or policy of the Company, any of its Subsidiaries or any affiliate of the Company or any of its Subsidiaries; or has been convicted of a felony or misdemeanor (other than minor traffic violations or similar offenses);

(iii) has materially breached any of the provisions of any agreement with the Company, any of its Subsidiaries or any affiliate of the Company or any of its Subsidiaries; or

(iv) has engaged in unfair competition with, or otherwise acted intentionally in a manner injurious to the reputation, business or assets of, the Company, any of its Subsidiaries or any affiliate of the Company or any of its Subsidiaries; has improperly induced a vendor or customer to enter into, break or terminate any contract with the Company, any of its Subsidiaries or any affiliate of the Company or any of its Subsidiaries; or has induced a principal for whom the Company, any of its Subsidiaries or any affiliate of the Company or any of its Subsidiaries acts as agent to terminate such agency relationship.

4. Limits on Transferability. Restricted Stock Units shall not be transferable except by will or the laws of descent and distribution or pursuant to a beneficiary designation, or as otherwise permitted by the Plan. No right or benefit hereunder shall in any manner be liable for or subject to any debts, contracts, liabilities, or torts of

Grantee. Grantee agrees that the Restricted Stock Units will not be sold or otherwise disposed of in any manner that would constitute a violation of any applicable federal or state securities laws. Any purported assignment, alienation, pledge, attachment, sale, transfer or other encumbrance of shares of unvested Restricted Stock Units that does not satisfy the requirements of this Agreement and the Plan shall, prior to the lapse of the restrictions on such shares pursuant to Section 2, be void and unenforceable against the Company.

5. Issuance and Certificates. Unless the Restricted Stock Units are forfeited prior to the Vesting Date as provided in Section 2 above, the shares of Common Stock issuable upon vesting of the Restricted Stock Units shall be deemed issued as of the Vesting Date. As soon as administratively practicable following a Vesting Date, the Company shall cause a stock certificate or certificates (which may be in electronic form) to be delivered to or

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2

on behalf of Grantee for such number of shares equal to the number of Restricted Stock Units vested on such Vesting Date, subject to the Company's collection of applicable withholding taxes in accordance with Section 7 below. Notwithstanding any other provisions of this Agreement, the issuance or delivery of any shares of Common Stock may be postponed for such period as may be required to comply with any requirements under any law or regulation applicable to the issuance or delivery of such shares. The Company shall not be obligated to issue or deliver any shares of Common Stock if the issuance or delivery thereof shall constitute a violation of any provision of any law or of any regulation of any governmental authority.

6. Stockholder Rights. Grantee shall not have any stockholder rights, including voting or dividend rights, with respect to the shares of Common Stock subject to the Restricted Stock Units until such shares are issued on the applicable Vesting Date.

7. Withholding. In order to comply with all applicable federal or state income tax laws or regulations, the Company may take such action as it deems appropriate to ensure that all applicable federal or state payroll, withholding, income or other taxes, which are the sole and absolute responsibility of Grantee, are withheld or collected from Grantee. In accordance with the terms of the Plan, and such rules as may be adopted by the Committee under the Plan, to satisfy Grantee's federal and state tax withholding obligations arising from the vesting of the Restricted Stock Units, the Company shall be permitted in its discretion to withhold shares of Common Stock otherwise to be delivered to Grantee having a Fair Market Value equal to the amount of such taxes. The Company will not deliver any fractional shares of Common Stock. Any additional withholding amounts owed by Grantee due to the inability to deliver fractional shares will be deducted from Grantee's next paycheck.

8. Tax Consideration. The Company has advised Grantee to seek Grantee's own tax and financial advice with regard to the federal and state tax considerations resulting from Grantee's receipt of Restricted Stock Units pursuant to this Agreement. Grantee understands that the Company will report to appropriate taxing authorities the payment to Grantee of compensation income upon the vesting of the Restricted Stock Units. Grantee understands that he or she is solely responsible for the payment of all federal and state taxes resulting from this grant of Restricted Stock Units. With respect to tax withholding amounts, the Company has all of the rights specified in Section 7 of this Agreement and has no obligations to Grantee except as expressly stated in Section 7 of this Agreement.

9. Non-Solicitation. Grantee, for the twelve (12) month period immediately following the date of termination of Grantee's employment or services, shall not, either on his or her own account or jointly with or as a manager, agent, officer, employee, consultant, partner, joint venturer, owner, or shareholder, or otherwise on behalf of any other person, firm, or corporation, directly or indirectly solicit or attempt to solicit away from the Company any of its employees or offer employment to any person who, on or during the six (6) months immediately preceding the date of such solicitation or offer, is or was an employee of the Company. Grantee agrees that the covenant set forth in this Section 9 is specifically enforceable with respect to its duration, geographical area and scope. In the event that the geographic or temporal scope of the covenant contained herein or the nature of the business or activities restricted hereby shall be declared by a court of competent jurisdiction to exceed the maximum restrictiveness such court deems enforceable, such provisions shall be deemed to be replaced herein by the maximum restriction deemed enforceable by such court.

10. Injunctive Relief. The parties hereto agree that either party hereto would suffer irreparable harm from a breach by the other party of any of the covenants or agreements contained in Section 9, for which there is no adequate remedy at law. Therefore, in the event of the actual or threatened breach by a party of any of the provisions of this Agreement, the other party, and in the case of the Company, its respective successors or assigns, may, in addition and supplementary to other rights and remedies existing in their favor, apply to any court of law or equity of competent jurisdiction for specific performance, injunctive or other relief (without the necessity of posting bond or security) in order to enforce compliance with, or prevent any violation of, the provisions hereof; and that, in the event of such breach or threat thereof by one party, the other party shall be entitled to obtain a

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3

temporary restraining order and/or a preliminary injunction restraining the other party from engaging in activities prohibited hereby or such other relief as may be required to specifically enforce any of the covenants contained herein.

11. Notices. Any notice to be given under the terms of this Agreement shall be in writing and addressed to the Company at its principal office to the attention of the Secretary, and to Grantee at the address last reflected on the Company's payroll records (including via e-mail if Grantee is then employed by the Company), or at such other address as either party may hereafter designate in writing to the other. Any such notice (if not sent via e-mail) shall be delivered in person or shall be enclosed in a properly sealed envelope addressed as aforesaid, registered or certified, and deposited (postage and registry or certification fee prepaid) in a post office or branch post office regularly maintained by the United States Government. Any such notice shall be given only when received, but if Grantee is no longer employed by the Company or a Subsidiary, shall be deemed to have been duly given five business days after the date mailed in accordance with the foregoing provisions in this Section 11.

12. Conflicts and Interpretation. In the event of a conflict or inconsistency between the terms and conditions of this Agreement and of the Plan, the terms and conditions of the Plan shall govern. Grantee agrees to be bound by the terms of the Plan and this Agreement. Grantee acknowledges having read and understanding the Plan, this Agreement, and the Prospectus for this Agreement. Unless otherwise expressly provided in other sections of this Agreement, provisions of the Plan that confer discretionary authority on the Board or the Committee do not and shall not be deemed to create any rights in Grantee unless such rights are expressly set forth herein or are otherwise in the sole discretion of the Board or the Committee so conferred by appropriate action of the Board or the Committee under the Plan after the date hereof.

13. Entire Agreement; Amendment. Except as may otherwise be provided in any employment, severance or other agreement between the Company and Grantee, or any Company plan in which Grantee participates, this Agreement and the Plan together constitute the entire agreement and supersede all prior understandings and agreements, written or oral, of the parties hereto with respect to the subject matter hereof. The Company may modify, amend or waive the terms of the Restricted Stock Unit award, prospectively or retroactively, but no such modification, amendment or waiver shall impair the rights of Grantee without his or her consent, except as required by applicable law, NASDAQ or stock exchange rules, tax rules or accounting rules. The waiver by either party of compliance with any provision of this Agreement shall not operate or be construed as a waiver of any other provision of this Agreement, or of any subsequent breach by such party of a provision of this Agreement.

14. Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware without regard to conflict of law principles thereunder.

15. Binding Effect. This Agreement shall bind Grantee and the Company and their beneficiaries, survivors, executors, administrators and transferees.

16. No Employment/Service Commitment. Nothing contained in this Agreement or the Plan constitutes a continued employment or service commitment by the

Company or any of its Subsidiaries, affects Grantee's status, if he or she is an employee, as an employee at will who is subject to termination without cause, confers upon Grantee any right to remain employed by or in service to the Company or any Subsidiary, interferes in any way with the right of the Company or any Subsidiary at any time to terminate such employment or service, or affects the right of the Company or any Subsidiary to increase or decrease Grantee's other compensation. Payment of any Restricted Stock Unit Award amount is not secured by a trust, insurance contract or other funding medium, and Grantee does not have any interest in any fund or specific assets of the Company or any of its Affiliates by reason of this Restricted Stock Unit Award.

17. Compliance with Code Section 409A. The Restricted Stock Units granted under this Agreement are intended to fit within the "short-term deferral" exemption from section 409A of the Internal Revenue Code. In

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4

administering this Agreement, the Company shall interpret this Agreement in a manner consistent with such exemption.

18. Forfeiture. Grantee must reimburse or forfeit to the Company any payment received or to be received hereunder by Grantee to the extent required by the clawback policy adopted by the Board of Directors.

19. Definitions. To the extent not specifically defined in this Agreement, each capitalized term used in this Agreement has the meaning ascribed to such term in the Plan.

20. Committee Administration. The Committee has sole and exclusive responsibility for construing and interpreting this Agreement and for resolving all questions arising under this Agreement. Any decision or action taken by the Committee arising out of, or in connection with, the construction, administration, interpretation and effect of this Agreement will be conclusive and binding upon all persons.

21. Severability. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of the other provisions of this Agreement, which will remain in full force and effect. Moreover, if any provision is found to be excessively broad in duration, scope or covered activity, the provision will be construed so as to be enforceable to the maximum extent compatible with applicable law.

[Signature Appears on Following Page]

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5

**RED ROBIN GOURMET BURGERS, INC.**, a Delaware corporation

By: /s/ Wayne Davis  
Name: Wayne Davis  
Title: Senior Vice President and Chief People Officer

*[Signature Page to RSU Agreement - Wilson]*

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6

**Consent of Independent Registered Public Accounting Firm**

We consent to the use of our report dated March 3, 2021, except as to paragraph (d) of Note 1, which is as of March 10, 2022, with respect to the consolidated financial statements of Red Robin Gourmet Burgers, Inc, and the effectiveness of internal control over financial reporting, incorporated herein by reference.

/s/ KPMG LLP

Denver, Colorado  
November 14, 2022

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**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our reports dated March 10, 2022 relating to the financial statements of Red Robin Gourmet Burgers, Inc. and the effectiveness of Red Robin Gourmet Burgers, Inc.'s internal control over financial reporting, appearing in the Annual Report on Form 10-K of Red Robin Gourmet Burgers, Inc. for the year ended December 26, 2021.

/s/ Deloitte & Touche LLP

Denver, Colorado  
November 14, 2022

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## Calculation of Filing Fee Table

S-8  
(Form Type)RED ROBIN GOURMET BURGERS, INC.  
(Exact Name of Registrant as Specified in its Charter)

Table I: Newly Issued Securities

Security Type	Security Class Title <sup>(1)</sup>	Fee Calculation Rule	Amount Registered	Proposed Maximum Offering Price Per Share	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common stock, \$0.001 par value per share	Other <sup>(2)</sup>	45,395	\$6.92 <sup>(2)</sup>	\$314,133.40 <sup>(2)</sup>	\$110.20 per \$1,000,000	\$34.62
	Total Offering Amounts						\$34.62
	Total Fee Offsets						\$0.00
	Net Fee Due						\$34.62

(1) Represents 45,395 shares of common stock, par value \$0.001 per share (the “common stock”) of Red Robin Gourmet Burgers, Inc. (the “Company”) that are reserved for issuance upon the vesting of restricted stock units granted to Todd Wilson, the Company’s Executive Vice President and Chief Financial Officer, as an inducement material to Mr. Wilson’s appointment as described in the accompanying registration statement on Form S-8 (the “Inducement Grant”). Pursuant to Rule 416 of the Securities Act of 1933, as amended (the “Securities Act”), this registration statement on Form S-8 also includes additional shares of common stock in respect of the securities identified in the above table that may become issuable pursuant to the Inducement Grant by reason of any stock dividend, stock split, recapitalization or similar adjustments.

(2) Estimated in accordance with Rule 457(c) solely for purposes of calculating the registration fee. The maximum price per share of common stock and the maximum aggregate offering price are based on the average of the \$7.03 (high) and \$6.80 (low) sale price of the common stock as reported on The Nasdaq Stock Market LLC on 11/9/2022, which date is within five business days prior to filing this registration statement.