

FRANCHISE DISCLOSURE DOCUMENT



Modern Market Franchising, LLC
A Delaware limited liability company
3001 Brighton Blvd., Suite 701,
Denver, CO 80216
PH: (855) 470-0098
franchising@modernmarket.com
www.modernmarket.com

We offer franchises for premium fast casual restaurants under the name “Modern Market Eatery” and related trademarks with a menu consisting of freshly prepared sandwiches, salads, plated dishes, soups, pizzas, and beverages (each a “**Modern Market Eatery Restaurant**” or “**Restaurant**”).

The total investment necessary to begin operation of a single Modern Market Eatery Restaurant ranges from \$928,500 to \$1,468,750. This includes \$40,000 to \$40,500 that must be paid to the franchisor or its affiliate(s). The amount paid to us includes initial franchise fee and site assistance fee.

We may offer the rights to enter into an area development agreement to establish and operate a minimum of 2 Modern Market Eatery Restaurants at specific locations pursuant to individual franchise agreements. This includes a development fee that you must pay to us in the amount of \$40,000 for the first Modern Market Eatery Restaurant to be developed plus a deposit of \$10,000 for each additional Modern Market Eatery Restaurant to be developed (there are no additional fees payable to our affiliates). The total investment necessary under the development agreement, based on a commitment of 2 Modern Market Eatery Restaurants, is \$1,857,000 to \$2,837,500. This includes \$50,000 of development fees that must be paid to us or our affiliates.

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Christopher Cheek, Chief Development Officer, Modern Market Franchising, LLC at 3001 Brighton Blvd., Suite 701, Denver, CO 80216, email: franchising@modernmarket.com, phone: (855) 470-0098.

The terms of your contract will govern your franchise relationship. Do not rely on the disclosure document alone to understand your contract. Read all of your entire contract carefully. Show your contract and this disclosure document to an advisor, like a lawyer or an accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as “[A Consumer's Guide to Buying a Franchise](#),” which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC's home page at www.ftc.gov for additional information. Call your state agency or visit your public library for other sources of information on franchising.

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

ISSUANCE DATE: JANUARY 31, 2024

How to Use This Franchise Disclosure Document

Here are some questions you may be asking about buying a franchise and tips on how to find more information:

QUESTION	WHERE TO FIND INFORMATION
How much can I earn?	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit G.
How much will I need to invest?	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor’s direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
Does the franchisor have the financial ability to provide support to my business?	Item 21 or Exhibit D includes financial statements. Review these statements carefully.
Is the franchise system stable, growing, or shrinking?	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
Will my business be the only Restaurant business in my area?	Item 12 and the “territory” provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
Does the franchisor have a troubled legal history?	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
What’s it like to be a Restaurant franchisee?	Item 20 or Exhibit G lists current and former franchisees. You can contact them to ask about their experiences.

QUESTION	WHERE TO FIND INFORMATION
What else should I know?	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

What You Need To Know About Franchising *Generally*

Continuing responsibility to pay fees. You may have to pay royalties and other fees even if you are losing money.

Business model can change. The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

Supplier restrictions. You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

Operating restrictions. The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

Competition from franchisor. Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

Renewal. Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

When your franchise ends. The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

Some States Require Registration

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit E.

Your state also may have laws that require special disclosures or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda. See the Table of Contents for the location of the State Specific Addenda.

Special Risks to Consider About *This Franchise*

Certain states require that the following risk(s) be highlighted:

1. **Out-of-State Dispute Resolution.** The franchise agreement and area development agreement require you to resolve disputes with the franchisor by litigation only in Colorado. Out-of-state litigation may force you to accept a less favorable settlement for disputes. It may also cost more to litigate with the franchisor in Colorado than in your own state.
2. **Short Operating History.** The franchisor is at an early stage of development and has a limited operating history. This franchise is likely to be a riskier investment than a franchise in a system with a longer operating history.
3. **Financial Condition.** The franchisor's financial condition, as reflected in its financial statements (see Item 21), calls into question the franchisor's financial ability to provide services and support to you.
4. **Supplier Control.** You must purchase all or nearly all of the inventory or supplies that are necessary to operate your business from the franchisor, its affiliates, or suppliers that the franchisor designates, at prices the franchisor or they set. These prices may be higher than prices you could obtain elsewhere for the same or similar goods. This may reduce the anticipated profit of your franchise business.

Certain states may require other risks to be highlighted. Check the "State Specific Addenda" (if any) to see whether your state requires other risks to be highlighted.

TABLE OF CONTENTS

<u>Item</u>	<u>Page</u>
ITEM 1 THE FRANCHISOR AND ANY PARENTS, PREDECESSORS AND AFFILIATES.....	1
ITEM 2 BUSINESS EXPERIENCE	4
ITEM 3 LITIGATION	5
ITEM 4 BANKRUPTCY	5
ITEM 5 INITIAL FEES.....	5
ITEM 6 OTHER FEES	6
ITEM 7 ESTIMATED INITIAL INVESTMENT	12
ITEM 8 RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES.....	18
ITEM 9 FRANCHISEE’S OBLIGATIONS.....	22
ITEM 10 FINANCING.....	24
ITEM 11 FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING	24
ITEM 12 TERRITORY.....	35
ITEM 13 TRADEMARKS	38
ITEM 14 PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION.....	39
ITEM 15 OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS	41
ITEM 16 RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL.....	42
ITEM 17 RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION	42
ITEM 18 PUBLIC FIGURES	47
ITEM 19 FINANCIAL PERFORMANCE REPRESENTATIONS	48
ITEM 20 OUTLETS AND FRANCHISEE INFORMATION.....	53
ITEM 21 FINANCIAL STATEMENTS	56
ITEM 22 CONTRACTS.....	56
ITEM 23 RECEIPTS	56

EXHIBITS

- A. Area Development Agreement
- B. Franchise Agreement
- C. Manual Table of Contents
- D. Financial Statements
- E. List of State Administrators and Agents for Service of Process
- F. State Addenda
- G. Lists of Franchised Locations, Franchise Agreements Signed but Outlet Not Open, and
Former Franchisees
- H. General Release
State Effective Dates
Receipts

ITEM 1 THE FRANCHISOR AND ANY PARENTS, PREDECESSORS AND AFFILIATES

This disclosure document describes Modern Market Eatery restaurant franchises. In this disclosure document, “we,” “us,” “our” and “**Modern Market Eatery**” means **Modern Market Franchising, LLC**, the franchisor, and “you” or “your” means the purchaser of the franchise. If the purchaser of the franchise is a corporation, partnership, or limited liability company, “you” means both the purchaser and the persons who own the business entity. If the franchisee is a legal entity, each of your owners, officers, directors, and limited liability company managers must sign and personally guarantee all of the franchisee’s obligations under the Franchise Agreement.

The Franchisor

Modern Market Franchising, LLC is a Delaware limited liability company formed on April 17, 2019. We do business under our corporate name and the name Modern Market Eatery. We do not conduct business under any other name. Our principal place of business is 3001 Brighton Blvd., Suite 701, Denver, Colorado 80216. Our agents for service of process are listed in Exhibit E.

We began offering franchises for Modern Market Eatery restaurants in 2020. We do not operate Modern Market Eatery Restaurants. We have never offered franchises in any other line of business and we do not conduct any other business.

Our Parent, Affiliates and Predecessors

Our immediate parent, ModMarket, LLC, is a limited liability company formed in Colorado on October 29, 2008, which shares our principal business address. ModMarket, LLC has operated company-owned Modern Market Eatery Restaurants since September 2009. During 2020, it began testing ghost kitchen and virtual kitchen concepts; it may discontinue these tests at any time. As of the date of this disclosure document, there are 23 Modern Market Eatery Restaurants operated by ModMarket, LLC in the United States, and 3 Modern Market Eatery Restaurants, which are operated in the United States under licenses granted by our affiliate ModMarket Licensing, LLC pursuant to exemptions under any applicable federal and state franchise laws. ModMarket, LLC, which shares our principal address, has not offered franchises in any line of business. ModMarket, LLC’s intermediate parents consist of Modern Restaurant Concept Holdings, LLC, a Delaware limited liability company formed in February 2019 (“MRCH”), MRC Intermediate, Inc., a Delaware corporation formed in August 2022 (“MRCI”), MRC Intermediate Guarantor, Inc., a Delaware corporation formed in August 2022 (“Guarantor”), MRC Parent, Inc., a Delaware corporation, a Delaware corporation formed in August 2022 (“MRC”), and New MRC Holdings, LLC, a Delaware limited liability company formed in August 2022 (“Holdings” and, together with MRCH, MRCI, Guarantor, and MRC, the “MRC Parent Entities”), each of which shares our principal business address. Our MRC Parent Entities are majority owned by funds controlled by Butterfly Equity LP, a private equity firm with a principal address at 9595 Wilshire Boulevard, Suite 510, Beverly Hills, CA 90212. The MRC Parent Entities have never offered franchises in any line of business. Pursuant to an agreement and plan of merger dated as of August 7, 2022, MRCI acquired the outstanding equity interests of Qdoba Restaurant Corporation (“Qdoba”), a corporation formed in Colorado on October 21, 1997, with a principal business address of 350 Camino De La Reina, Suite 400, San Diego, California 92108. As a result of the transaction, Qdoba is our affiliate. Qdoba offers franchises for “Qdoba” restaurants, which are high-quality, Mexican-themed quick-service or fast-casual restaurants operated under the name

“Qdoba” and related trademarks with a menu consisting of Mexican-themed food items including burritos, tacos, wraps, salads, soups, and quesadillas. As of October 1, 2023, there were 747 Qdoba restaurants in the United States and Canada, of which 176 were company operated and 571 were franchised.

Except as noted in this Item 1, we do not have (1) any other parent companies; or (2) any predecessors; or (3) any other affiliates that offer franchises in any line of business or (4) any affiliates that offer products or services to our franchisees.

The Modern Market Eatery Restaurant Franchise

Modern Market Eatery Restaurants are premium fast casual restaurants operated under the name “**Modern Market Eatery**” and related trademarks with a menu consisting of freshly prepared sandwiches, salads, plated dishes, soups, pizzas and beverages. Modern Market Eatery restaurants have a standard and recognizable signature color scheme and décor.

We offer qualified persons and entities the right to develop multiple Modern Market Eatery Restaurants within a specified geographic area (“**Development Area**”) according to a mandatory development schedule (“**Development Schedule**”) under the Area Development Agreement (“**Development Agreement**”). Our current form of Development Agreement appears in Exhibit A to this disclosure document. When you sign the Development Agreement, you will pay the development fee (see Item 5) and you will receive the right and the obligation to develop a specified number of Modern Market Eatery restaurants by certain deadlines set forth in the Development Schedule. You will negotiate both the number of Modern Market Eatery Restaurants and the Development Schedule with us. The minimum development commitments under the Development Agreement will be two (2) Modern Market Eatery Restaurants. You must sign the Franchise Agreement for the first Modern Market Eatery Restaurant to be developed under the Development Agreement when you sign the Development Agreement.

We will grant Modern Market Eatery franchises under the Development Agreement only to you or to a corporation, limited liability company or other entity of which you or one or more of your owners owns more than 50% of the total authorized ownership interests, as long as you or such owner(s) have the right to control the entity’s management and policies. You (or your affiliate) will sign our then-current form of Franchise Agreement for each Modern Market Eatery restaurant that you develop under the Development Agreement. Our then-current form of Franchise Agreement may differ from the version of Franchise Agreement attached to this disclosure document. You or your affiliates must sign Franchise Agreements for, open, and begin operating, each Modern Market Eatery restaurant on or before the dates listed in the Development Schedule.

Under the Franchise Agreement, we will grant you a license to use the “Modern Market Eatery” trademark and logo, as well as related trade names, service marks, trademarks, logos, emblems, and indicia of origin (the “**Proprietary Marks**”) and certain copyrights and copyrighted materials (the “**Works**”) for the operation of Modern Market Eatery restaurants. We may modify the Proprietary Marks and the Works from time to time.

Modern Market Eatery restaurants operate according to a distinctive format, appearance, and set specifications and operating procedures (“**System**”). Under the Franchise Agreement, we will grant you the right to utilize our System under the Franchise Agreement. Our mandatory and recommended standards, policies and procedures are represented in our confidential and proprietary operations and brand standards manuals (the “**Manual**”), which we will make available

to you during the term of your Franchise Agreement. We have the right to change the Manual and the elements of the System at any time without consultation with you.

You will establish your Restaurant in a well-established urban or suburban market. We expect franchised Modern Market Eatery restaurants will be between 2,300 to 2,800 square feet of interior spaces. We will consider on a case-by-case basis a franchisee's request to convert an existing facility to a Modern Market Eatery restaurant, as well as sites that may be larger or smaller than our standard size, provided that the site can be transformed to meet the standards and specifications of the System.

You will have the right to sell food and beverage items at retail to the public for carry-out and/or consumption on the premises of the Modern Market Eatery restaurant. In addition, you must offer any on-line ordering and delivery options we require. If we develop catering, fundraising or similar programs, such programs may be optional or mandatory. With all such programs, you must use any approved technology, equipment (such computer or POS related equipment) or software we require and comply with all other rules and procedures that we specify. You must pay any fees and costs associated with participating in these programs. We may define designated service areas for these programs which, even if you have signed a Development Agreement, may be smaller than your Development Area.

Industry-Specific Laws

Certain aspects of any restaurant business are regulated by federal, state and local laws, rules and ordinances in addition to the laws, regulations and ordinances applicable to businesses generally. The U.S. Food and Drug Administration ("FDA"), the U.S. Department of Agriculture, as well as state and local departments of health and other agencies have laws and regulations concerning the preparation of food and sanitary conditions of restaurant facilities. State and local agencies routinely conduct inspections for compliance with these requirements. The FDA and some states and municipalities regulate food labeling, nutrition, and health claims relating to food products. However, we are not aware of any laws applicable to a Modern Market Eatery restaurant that would not apply to restaurant businesses that have healthy and fresh offerings generally.

You will be required to comply with all federal, state and local laws and regulations that generally apply to restaurants. These include the Americans with Disabilities Act; Affordable Care Act, Fair Labor Standards Act; EEOC; OSHA; Gramm-Leach-Bliley Act; The Patriot Act; Federal Truth in Lending and other laws dealing with credit transactions and collections; Digital Millennium Copyright Act; regulations governing MMS, SMS, emails and telemarketing; the payment of license fees; general restaurant rules and regulations; health, sanitation, menu-labeling, no smoking, liquor, discrimination, employment and sexual harassment laws, and any advertising or content-related rules and regulations. You must obtain real estate permits and licenses and operational licenses (including permits to serve alcohol if you plan to serve wine and beer at your Restaurant). It is your responsibility to investigate, satisfy and stay current on all local, state, and federal laws and regulations since they vary from place to place and can change over time. You should consult with your attorney concerning these and other laws and ordinances that may affect your operations.

Market and Competition

The market for restaurant services is well-established. Modern Market Eatery restaurants primarily attract young professionals; however, the concept appeals to men and women of all ages looking for a high quality, healthier and fresh menu offerings. The restaurant market is highly competitive, generally mature and well developed. You will compete with a variety of restaurants, caterers, grocery stores, take-out restaurants and convenience stores. The restaurant business is highly competitive based on price, service, restaurant location and food quality and is subject to fluctuations in consumer tastes, economic conditions, population, traffic patterns, weather and seasonality. In each market, you will compete with locally owned restaurants, as well as national and regional restaurant chains. Some of our competitors have longer operating histories, larger and better financial resources, and better name recognition than Modern Market Eatery. You may also compete with other company-owned and franchised Modern Market Eatery restaurants. The ability of each Modern Market Eatery restaurant to compete depends on its location, ingress and egress, signage, parking, quality service, employee attitudes, overhead, changing local market and economic conditions, and many other factors both within and outside your control. You should independently research and review the legal documents of the food service industry, including those pertaining to healthy and fresh offerings, with your own attorney before you sign any binding documents or make any investment, as you are solely responsible for compliance and adherence to the rules, regulations and laws in your area.

ITEM 2 BUSINESS EXPERIENCE

President – Robert McColgan

Mr. McColgan is our Co-Founder and has been our President since January 2023. He has been a Director of MRCl, Guarantor, MRC, and Holdings since August 2022. From October 2020 to December 2022, he was our Chief Executive Officer. From April 2019 to September 2020, he was our Co-Chief Executive Officer. He has held the same positions with ModMarket LLC since October 2008 in Denver, Colorado. Mr. McColgan has also been a managing member of Modmarket Licensing LLC since September 2013 in Denver, Colorado.

Chief Executive Officer - John C. Cywinski

Mr. Cywinski has served as our Chief Executive Officer since January 2023. He has been Chief Executive Officer and a Director of MRCl, Guarantor, MRC, and Holdings since January 2023. He was President of Applebee's Franchisor LLC from March 2017 to January 2023 and served as an executive officer of certain of the affiliates of Applebee's Franchisor LLC from March 2017 to January 2023 in Glendale, California.

Chief Operating Officer – Robin Robison

Mrs. Robison has been our Chief Operating Officer since April 2019 in Denver, Colorado. She has held the same position with ModMarket LLC since September 2014 in Denver, Colorado.

Chief Development Officer – Christopher Cheek

Mr. Cheek has been our Chief Development Officer since April 2022. He has been President of Atlantic Franchise Advisors, LLC (a consulting company) in Cary, North Carolina including from November 2021 to March 2022. From July 2021 to October 2021, he was Chief Development Officer, QSR Division for FAT Brands, Inc. in Beverly Hills, California. From October 2019 to July 2021, Mr. Cheek was Chief Development Officer for Global Franchise Group, LLC in

Atlanta, Georgia. He was Chief Development Officer with Newk's Franchise Company, LLC from July 2014 to October 2019 in Jackson, Missouri.

Secretary and Treasurer – Mel Tucker

Mr. Tucker has been our Secretary and Treasurer since October 2022. He has held the same position with QAI and Qdoba of Canada, Inc. since October 2022 in San Diego, California. He has been a Director of MRCl and Guarantor since January 2023 in San Diego, California, and the Chief Financial Officer, Secretary, and Treasurer of the MRC Parent Entities since November 2022 in San Diego, California. He has also been the Chief Financial Officer of Qdoba, QAI and Qdoba of Canada, Inc. since February 2022 in San Diego, California. From January 2021 to December 2021 he was the Chief Financial Officer of Ideal Image Development Inc. in Tampa, Florida. From April 2019 to December 2020, he was the Chief Financial Officer of Genesco Inc. in Nashville, Tennessee. From April 2014 to April 2019, he was the Chief Financial Officer of Century 21 Department Store LLC in New York, New York.

ITEM 3 LITIGATION

No litigation is required to be disclosed in this Item.

ITEM 4 BANKRUPTCY

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

ITEM 5 INITIAL FEES

Franchise Fee

When you sign the Franchise Agreement, you must pay us an initial franchise fee (the "**Franchise Fee**") in full, in the amount of \$40,000. If you sign an Area Development Agreement, instead of paying the full Franchise Fee, we will credit a portion of the Area Development Fee you paid toward the Franchise Fee as described below.

Area Development Fee

If you qualify and we mutually agree to enter into an Area Development Agreement to open multiple units, you must pay us an area development fee (the "**Area Development Fee**"). The amount of the Area Development Fee will depend on the number of Modern Market Eatery Restaurants to be developed and will be calculated as follows: \$40,000 for the first Modern Market Eatery Restaurant; plus \$10,000 for each additional Modern Market Eatery Restaurant. We will insert the total amount of the Area Development Fee in Exhibit A to the Development Agreement. The Area Development Fee will be due in full upon the signing of an Area Development Agreement. The minimum development commitment under an Area Development Agreement will be two (2) Modern Market Eatery Restaurants.

If you meet your obligations under the Area Development Agreement and are not otherwise in default under any other agreement with us, we will apply \$40,000 of the Area Development Fee as payment in full of the Franchise Fee for the first Modern Market Eatery Restaurant. For each additional Modern Market Eatery Restaurant, we will apply increments of \$10,000 of the Area Development Fee toward the Franchise Fee due under each Franchise Agreement that you sign pursuant to the Area Development Agreement, and you must pay the balance (\$30,000) when you sign the applicable Franchise Agreement.

Site Selection Assistance Fee

At our option, we may conduct an on-site evaluation of the site(s) you propose for your Modern Market Eatery Restaurant(s). We do not charge any fees to conduct one market visit, however; if we require, or if you request, any additional market visits, we may charge you a site selection assistance fee (the “**Site Selection Assistance Fee**”) in the amount of \$500 and reimburse us for our travel expenses associated with such visits.

* * * *

The Franchise Fee, Area Development Fee, and other fees and expenses we describe in this Item 5 are fully earned when paid and are not refundable. These fees are uniform for all new franchisees in the system. During our last fiscal year, we did not reduce or waive any initial fees noted above.

**ITEM 6
OTHER FEES**

Type of Fee¹	Amount	Date Due	Remarks
Royalty	5% of Gross Sales ²	Payable weekly ³	See Note 2 for the definition of “ Gross Sales ”; see Note 3 for an explanation of our electronic funds transfer (EFT) process.
Brand Fund Contribution	Currently 1% of Gross Sales ²	Same as royalty ³	Beginning with the first week of operation of your Restaurant, you must contribute at least 1% of your Gross Sales to the Brand Fund. We reserve the right to increase the Brand Fund contribution to up to 3% of your Gross Sales per week upon 30 days’ written notice. See Item 11 for future details.
Local Advertising Requirement	Currently 1% of Gross Sales ²	Must be spent annually	Payable to your local advertising suppliers (unless collected by us in advance at our option). Any advertising you propose to use must first be approved by us. See Item 11 for further details.

Type of Fee ¹	Amount	Date Due	Remarks
Cooperative Fund Contributions	Amount set by Cooperative	As determined by the Cooperative	This amount is not paid to us. We have the right to establish cooperative marketing programs (“ Cooperatives ”) in your region. Only if and when the Fund is established.
Technology Fee	If we implement, we would charge a reasonable fee	Same as royalty ³	If charged, you will pay the Technology Fee directly to us. This fee may cover any technology services provided by us and could include access to a franchisee Intranet, website hosting, and access to a cloud-based data and storage communication system.
Collection Costs and Expenses	Amount incurred	Upon demand	You must pay our collection costs and expenses, which include collection agency fees, costs incurred in creating reports demonstrating Gross Sales, attorney’s fees, and related expenses we incur in enforcing the terms of the Franchise Agreement.
Annual Conference	We do not currently charge this fee or host an Annual Conference; If and when we implement, we may charge a reasonable fee that we anticipate would be up to \$1,000 for up to two people, but could be more depending on the costs of the Annual Conference.	As incurred	The “ Annual Conference Fee ” is payable to us for your Operating Principal and one other management person we approve to attend the Conference. This fee helps defray the cost of attendance at the conference. We reserve the right to charge this fee even if you do not attend.
Guest Issue Resolution	Our reasonable costs and expenses. If we charge, we anticipate the cost to you would be up to \$20 per incident, but could be more depending	Upon demand	You must reimburse us for our reasonable costs and expenses incurred in resolving guest complaints at your Restaurant.

Type of Fee ¹	Amount	Date Due	Remarks
	on the costs we incur to address any guest issue.		
Enforcement Expenses	Reasonable cost of our attorneys' fees and expenses	Upon demand	Payable if we obtain injunctive or other relief for the enforcement of any term of the Franchise Agreement.
Indemnification	Will vary under circumstances.	As incurred	You must indemnify and reimburse us and our affiliates for any expenses or losses that we incur, including attorneys' fees and other costs, or if we are held liable for claims arising out of your operation of your Restaurant. Indemnification costs cannot be estimated because such costs may depend on the action filed, claims raised, length of time the action is pending, and other factors. Given the fact specific nature of such costs, we cannot provide a formula for how these costs will be determined.
Late Fee and Interest on Overdue Payments	A late fee equal to 5% of your overdue amount, and interest equal to 1.5% per month (but not more than the maximum rate permitted by applicable law).	With payment of overdue amount	We calculate interest from the date the payment was due until paid in full.
Insufficient Funds Fee	\$250 and any bank fees incurred (or the maximum amount permitted under applicable law)	With payment of overdue amount	Payable if you deliver a check which does not clear your bank account or where we are not able to complete an electronic funds transfer due to insufficient funds.

Type of Fee ¹	Amount	Date Due	Remarks
Management Fee	20% of Gross Sales	Weekly	Due when we or a third party manage the Restaurant upon the Operating Principal's death or disability, if we have the right to terminate the Franchise Agreement or have placed you in formal default, or if the Franchise Agreement is terminated or expires and we are deciding whether to exercise our option to purchase the Restaurant.
Quality Assurance & Food Safety Programs	Our out of pocket costs	As incurred	You must pay costs that we incur to approved third parties to carry out quality assurance programs at your Restaurant. Currently, the costs are paid to a third party and the costs are subject to change.
Reimbursement for Examination or Audit	Actual cost of audit, including travel, lodging, wages and reasonable accounting and legal costs	Upon demand	Payable only if we audit you and the examination or audit reveals an understatement in any statement or report, including Gross Sales, of the Restaurant by you of 2% or more. This is in addition to applicable interest and late fees.
Reimbursement of our Expenses	Amount we pay on your behalf	Upon demand	Payable only if we pay, or become obligated to pay, monies on your behalf by consent or otherwise under the Franchise Agreement including amounts we pay to obtain insurance for your Restaurant on your behalf if you fail to maintain the required insurance policies.
Relocation Fee	\$2,500	Upon demand	Payable if you make a request and we approve your relocation of your Restaurant.

Type of Fee¹	Amount	Date Due	Remarks
Renewal Franchise Fee	\$15,000, per renewal term	Upon execution of a renewal franchise agreement	If you choose to and are approved to continue operating your Restaurant for the renewal term you must sign our then current form of renewal franchise agreement.
Securities Offering	\$10,000 or such greater amount as is necessary to reimburse us and our outside advisors for our expenses (including legal and accounting fees) to evaluate your proposed offering	With submission of offering materials for our review	Payable only if you intend to offer securities to investors. This is in addition to the regular transfer fee. You also must reimburse us on an annual basis for our costs associated with providing information for your annual reports.
Supplier and Product Evaluation Fee	Varies based on cost of evaluation.	Upon demand	Payable whether or not we approve the supplier. Please see item 8 for additional details.
Taxes	Amount imposed on us	Upon demand	You must reimburse us or our affiliates for any taxes, fees or assessments imposed on us by any state taxing authority for acting as a franchisor or licensing the Proprietary Marks and Works to you.
Training – Additional Programs	An amount set by us, which we currently anticipate would be up to \$250 per day per person, but we may modify that amount.	Upon demand	We have the right to charge you reasonable training fees for additional training programs that we administer during the term of your Franchise Agreement.
Additional Training or Assistance Fee	Then-current fee (currently \$250 per person per day) plus travel and living and other expenses.	Upon demand	We may charge you for training additional persons, newly-hired staff, refresher training, advanced training, and additional or special assistance or training you need or request. This fee is assessed whether we send a representative to your Restaurant to provide training or you send your staff to us.

Type of Fee ¹	Amount	Date Due	Remarks
Additional Management Training Fee	\$2,500 per person	Upon demand	If after we train the initial Operating Principal, you send any individuals to our full management training program, you must pay this fee.
Transfer Fee – Franchise Agreement	50% of our then-current Franchise Fee plus any costs or expenses we incur for the transfer	At time of transfer	Payable only if you propose to sell or transfer your Restaurant, ownership interest in whole or in part, or the Franchise Agreement. We do not charge a transfer fee if you transfer the agreement to a corporation entity or limited liability wholly owned by you, but you may be required to reimburse our costs and expenses.
Liquidated Damages⁴	Will vary	30 days after termination	Due only if we terminate the Franchise Agreement before the end of the term because of your material breach, or you terminate the Franchise Agreement without legal cause.

NOTES TO CHART:

- (1) **Type of Fee.** Unless otherwise noted, all of the fees or charges described in this Item derive from the Franchise Agreement. Unless otherwise noted, all fees are non-refundable, payable to us, and uniformly imposed on all franchisees receiving this offering.
- (2) **Gross Sales Defined. “Gross Sales”** means the aggregate amount of all revenues generated from the sale of all products and services sold and all other income of every kind related to the Restaurant, whether for cash or credit (and regardless of collection in the case of credit), whether from sales on the Premises, by delivery, from catering, or other sales methods (whether the sales method is permitted or not). You may not reduce Gross Sales by the amount of any discounts provided to employees, family members and other businesses that you control.

The following are not included in Gross Sales: (1) sales taxes or other taxes collected from guests for transmittal to the appropriate taxing authority (2) proceeds from the sale of gift cards or stored value cards; and (3) guest refunds made in good faith. We may modify our policies consistent with restaurant industry practices regarding revenue recognition, revenue reporting, and the inclusion in, or exclusion of certain revenue from “**Gross Sales**” as circumstances, business practices, and technology change.

(3) **EFT Process.** You must designate an account at a commercial bank of your choice (“**Account**”) for the payment of amounts due to us and/or our affiliates, including but not limited to Royalty Fees and Brand Fund Contributions. You must furnish us and the bank with authorizations as necessary to permit us to make withdrawals from the Account by electronic funds transfer. On the date specified by us, we will transfer from the Account an amount equal to the Royalty Fees and Brand Fund Contributions due from you as reported to us in your sales report or determined by us based on the records contained in the point of sales terminals of the Restaurant, as well as any other fees due to us and/or our affiliates. We will obtain payment by electronic debit to your Account.

(4) **Liquidated Damages.** If we terminate your Franchise Agreement for cause, you must pay us (within 30 days after the effective date of termination) liquidated damages equal to the average Royalty Fees that you owed for the one year period prior to termination (or, if the Restaurant was open for less than one year, the average Royalty Fees owed by you for the number of months that the Restaurant was in operation) multiplied by twelve (12) months or the remaining initial term of the Franchise Agreement, whichever is less.

**ITEM 7
ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT
FRANCHISE AGREEMENT**

Type of Expenditure	Amount Low Estimate¹	Amount High Estimate¹	Payment Method¹	When Due	Payment To
Franchise Fee ²	\$40,000	\$40,000	Lump sum	At signing of Franchise Agreement	Us
Lease Deposit ³	\$5,000	\$30,000	As incurred	Before and after opening	Lessor
Licenses and Permits ⁴	\$3,000	\$5,000	As incurred	Before opening	Local and other state government agencies
Architects and Design ⁵	\$18,000	\$40,000	As incurred	Before opening	Approved Suppliers
Construction/Leasehold Improvements ⁶	\$520,000	\$700,000	As incurred	Before opening	Independent contractors/ lessor
Graphics and Signage ⁷	\$20,000	\$40,000	As incurred	Before opening	Approved Suppliers
Kitchen Equipment	\$120,000	\$220,000	As incurred	Before opening	Approved Suppliers

Type of Expenditure	Amount Low Estimate¹	Amount High Estimate¹	Payment Method¹	When Due	Payment To
Furniture, Fixtures ⁸	\$75,000	\$150,000	As incurred	Before opening	Approved Suppliers
Computer and Security Equipment ⁹	\$25,000	\$35,000	As incurred	Before opening	Approved Suppliers
Uniforms	\$2,000	\$4,000	As Incurred	Before opening	Approved Suppliers
Professional Fees ¹⁰	\$2,000	\$5,000	As incurred	Before opening	Various service providers
Opening Inventory ¹¹	\$10,000	\$20,000	As incurred	Before opening	Approved Suppliers
Smallwares	\$20,000	\$25,000	As incurred	Before opening	Approved Suppliers
Pre-Opening Labor ¹²	\$10,000	\$20,000	As incurred	After opening	Your employees
Insurance Deposits ¹³	\$3,500	\$5,500	As incurred	Before opening	Insurance providers
Manager In Training ¹⁴	\$10,000	\$40,000	As incurred	Before opening	Various Vendors
Grand Opening Marketing ¹⁵	\$15,000	\$40,000	As incurred	Before opening	Approved Suppliers
Site Selection Assistance Fee ¹⁷	\$0	\$500	As incurred	Before opening	Us
Miscellaneous Opening Costs ¹⁸	\$0	\$8,750	As incurred	Before and After Opening	Approved Suppliers
Additional Funds - 3 months working capital ¹⁶	\$30,000	\$40,000	As incurred	After opening	Various
Total for Single Unit	\$928,500	\$1,468,750			

**YOUR ESTIMATED INITIAL INVESTMENT
DEVELOPMENT AGREEMENT**
Assumes Development Agreement for Minimum of Two (2) Restaurants

Type of Expenditure	Amount Low Estimate¹	Amount High Estimate¹	Method of Payment¹	When Due	To whom payment is to be made
Area Development Fee ¹⁹	\$50,000	\$50,000	Lump sum	Upon signing Development Agreement	Us
Remainder of Franchise Fees (\$30,000 for 2 nd Restaurant)	\$30,000	\$30,000	Lump	Upon signing Franchise Agreement	Us
Total Estimated Initial Investment for Two (2) Modern Market Eatery Restaurants (Based Upon High / Low Ranges from Table Above Minus \$40,000 in Franchise Fees)	\$1,777,000	\$2,757,500	See Table Above for Each Expenditure	See Table Above for Each Expenditure	See Table Above for Each Expenditure
Total Estimated Initial Investment for a Development Agreement	\$1,857,000	\$2,837,500			

NOTES TO ITEM 7 TABLES:

- (1) Amount and Method of Payment. Costs paid to us are not refundable, except as specifically described below. Whether any costs paid to third parties are refundable will vary based on the third parties' business terms. We do not provide any direct or indirect financing for the Franchise Fee, Area Development Fee, or other fees and costs paid to us or to third parties. If you meet the credit requirements determined by third party vendors, you may be able to obtain financing. The availability and terms of financing will depend on many factors, including the availability of financing generally, your creditworthiness and collateral, and lending policies of the financial institutions from which you request a loan. We do not determine the terms and conditions of any financing and we do not provide any guarantees for any financing provided to you by third parties.
- (2) Franchise Fee. The manner in which the Franchise Fee is paid is explained in detail in Item 5. If you develop multiple Restaurants under a Development Agreement, Item 5 explains how the Area Development Fee will be credited to the Franchise Fee you pay for each Restaurant.

- (3) Lease Deposit. This range of expense is typical for what commercial landlords charge in deposits and initial rents for spaces occupied by Modern Market Eatery restaurants. Pre-paid rent is generally non-refundable, while security or other deposits may be refundable either in full, or in part, depending upon the lease contract. Security deposit requirements will depend on a variety of factors, including your credit and financial condition.
- (4) Licenses and Permits. These are general estimates for permits and licenses that may be required by local and state governments. Local, municipal, county and state regulations vary with regard to the licenses and permits you will need to operate your Restaurant. You are responsible for obtaining and maintaining all required permits and licenses necessary to operate the Restaurant, including any permit or license required to distribute or dispense wine and/or beer at the Restaurant should you choose to offer such beverages. The cost of obtaining wine and/or beer licenses and related permits will vary greatly from state to state and local municipalities, for this reason and because the sale of beer and wine are not mandatory, these costs are not estimated. Note also, in many cases, the licenses are issued based on availability and our approval of the Premises for your Restaurant is not a guarantee that you will be able to obtain a beer and/or wine license for that location. There may also be costs for training required by some authorities that grant wine and/or beer licenses. You must obtain the required license(s) and all other necessary permits/approvals prior to opening your Restaurant unless applicable laws require that you first open the Restaurant, in which case you must obtain the license promptly after opening.
- (5) Architects and Design. You must use licensed, bonded and qualified architects and designers that may require approval by our design team to adapt our standardized plans and specifications based on our prototype(s) for remodeling or finishing your Restaurant. (see Item 8 and Item 11 under the subheading “**Construction and Layout of Restaurant**” for additional information.)
- (6) Construction/Leasehold Improvements. Modern Market Eatery restaurants range in size from approximately 2,300 square feet to 2,800 square feet. The estimate applies to a site which has been obtained in the “vanilla box” stage, which refers to the interior condition of either a new or existing building or suite that has been prepped with heating/cooling delivery systems, lighting, electrical switches and outlets, lavatories, a finished ceiling, walls that are prepped for painting, plumbing and other utilities to stub, and a concrete slab floor. The estimated costs cover all interior improvements, millwork, electrical, flooring, HVAC (heating, ventilation, air conditioning), structural changes, and restrooms. These numbers are not inclusive of architect fees but do recognize other fees typically charged by licensed professionals (such as project managers, general contractors and licensed tradesman), who are contracted to install electrical, plumbing, and HVAC. In some instances, landlords may provide monetary allowances for materials or work, or rent credits during the time of construction, however such allowances or credits are not reflected in the expense range represented here. Your costs may be less or more than this estimate, depending upon where you are planning to open your Restaurant or if you receive the premises in any condition other than what is in the “grey shell” description above or a non-standard commercial property. We recommend that you interview several contractors and check their references before engaging a contractor. We anticipate that you will lease rather than build your Restaurant. We therefore have not included any costs for land, building construction or related costs in our estimates.

- (7) Graphics & Signage. This estimate includes the cost to produce signage for the Restaurant. All signage must be in compliance with our standards and your local building and other codes.
- (8) Furniture & Fixtures. These figures represent the purchase of the furniture and fixtures needed for the operation of the Restaurant. The range of cost recognizes instances where Restaurant configurations differ, and different pieces, sizes or models may be recommended by our team based on the specific location attributes.
- (9) Computer and Security Equipment. This estimate covers the purchase of the computer equipment, and security systems. This estimate also covers the purchase of a point of sale system hardware and software, back office hardware (including a computer, monitor, printers, keyboard and iPads). This estimate also includes a Kitchen Display System (KDS) and related hardware and software. This estimate does not include taxes, shipping and installation labor and materials, charges to start phone and internet services, and accounting, payroll or back office inventory software. Also excludes third party integration for off-premise platforms.
- (10) Professional Fees. These fees are representative of the costs for engagement of professionals for the start-up of a restaurant business. We also strongly recommend that you seek the assistance of attorneys and accountants to review this franchise opportunity, this disclosure document, and subsequently, the Franchise Agreement and the Development Agreement. It is also advisable to consult these professionals to review any lease or other contracts that you will enter into as a part of developing the Restaurant. It is best to ask your professional advisors for a fee schedule prior to engaging them to perform any services on your behalf.
- (11) Opening Inventory and Supplies. This estimate covers initial inventory for stocking the Restaurant for the first week of operation.
- (12) Pre-Opening Labor. This estimate is for costs you will incur for salaries, benefits, etc. to hire a management team and staff prior to opening. All managers and staff must be on-site during any pre-opening and opening training we provide.
- (13) Insurance. This estimate includes the cost of insurance deposits and premiums during the pre-opening phase. An insurance deposit may be required by the issuing company in order to obtain the minimum required insurance as listed in Item 8 of this disclosure document. You will need to check with your local carrier for actual premium quotes and costs, as well as the actual cost of the deposit. The cost of coverage will vary based upon the area in which your business will be located, your experience with the insurance carrier, the loss experience of the carrier, your estimated sales / revenues or payrolls for employees, and other factors beyond our control. You should also check with your insurance agent or broker regarding any additional insurance that you may wish to carry above our stated minimums.
- (14) Manager In Training Expenses. Although there are no fees charged by us to participate in our Manager In Training program, you will incur initial training expenses associated with our program. The estimate assumes that you will pay for the travel, meals, auto, and lodging, for up to four individuals for up to 7 weeks of training at our office in Denver, Colorado or a restaurant located near our office (or at another site that we choose). The cost you incur will vary depending upon factors such as the distance traveled, mode of

transportation, per diem expenses actually incurred, and the number of persons who will attend training, as well as your chosen style of travel and accommodations. This estimate does not include wages you may choose to pay individuals participating in our Manager in Training program. The estimate also does not include the Opening Team Fee that you pay to us for opening assistance, which is described in Item 5.

- (15) Grand Opening Marketing Program. This estimate covers the costs of the Grand Opening Marketing Program. You must spend at least the amount noted in the low range. See Item 11 for more information.
- (16) Additional Funds – 3 Months (Working Capital). This is an estimate of the additional working capital you may need to operate your Restaurant during the first three months of operation and is net of any revenue you receive during this period. This estimate is based upon our parent's experience in opening, owning and operating Modern Market Eatery restaurants. The estimate includes items such as pre-opening wages that you pay your staff, but does not include an owner's salary. The estimate also includes items, such as initial payroll taxes, Royalty Fees, Brand Fund contributions, professional and accounting fees, additional advertising, insurance, health insurance and workers' compensation, repairs and maintenance, bank charges (including interest), miscellaneous supplies and equipment, initial staff recruiting expenses, state tax and license fees, depreciation and amortization, deposits and prepaid expenses (if applicable) and other unforeseen miscellaneous items. The expenses you incur during the initial start-up period will depend on factors such as the time of year you open, local economic and market conditions, the cost of labor in your area, the amount you pay your staff, the number of employees you hire, your experience and business acumen, competition, and the sales level you reach during this initial period. You will incur additional operating expenses in connection with the ongoing operation of your Restaurant.
- (17) Site Selection Assistance Fee. Item 5 includes a summary of the Site Selection Assistance Fee, which is \$500 for any market visit we conduct after the first visit. We anticipate that we will do no more than 2 market visits. If we do more visits, the costs will be higher. This estimate does not include the reimbursement for our expenses because they will vary from location to location.
- (18) Miscellaneous Opening Costs. Because opening a new restaurant may include unpredictable costs, the Miscellaneous Opening Costs are miscellaneous opening costs you may incur.
- (19) Development Fee. Your estimated initial investment under the Development Agreement will vary depending on the number of Modern Market Eatery restaurants you develop within the Development Area. The estimated initial investment chart reflects the minimum number of two (2) development commitments. No part of this initial investment is refundable, although we will apply the applicable portion of the Area Development Fee towards the Franchise Fee owed under each Franchise Agreement that the Development Agreement covers. The initial estimated cost for each Modern Market Eatery developed under the Development Agreement is currently \$928,500 to \$1,468,750, as set forth in the chart for the Franchise Agreement; but we reduced that amount by \$40,000 for each restaurant because the Franchise Fee is reflected in the table for the estimated investment for the Development Agreement.

The numbers in charts may be impacted by inflation or prices increases due to volatility of costs and availability of material and labor which could increase the costs noted by between 5-15%.

ITEM 8 RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

System Standards

To protect our reputation and goodwill and to maintain high standards of operation under the System, you must operate the Restaurant in strict conformance with our System standards, including the methods, standards, and specifications we prescribe from time to time in the Manual or otherwise in writing. The System standards may relate to any aspect of the appearance, function, cleanliness, and operation of the Restaurant.

Suppliers

You must purchase your food and beverage items, ingredients, supplies, equipment, furnishings, smallwares, merchandise, promotional items, information technology services, credit card processing services, and other products and services that you purchase for operation of or sale in the Restaurant in accordance with our specifications and quality standards and, if applicable, only from suppliers we have designated or approved (which may include us or our affiliates). We and our affiliates may earn a profit on products and services sold to you and other Modern Market Eatery franchisees (including proprietary products we may manufacture in our commissary and sell to third party distributors from whom you purchase). We may receive rebates or other consideration from suppliers with respect to their sales of products or services to you or other Modern Market Eatery franchisees, whether or not the product or service is presently mentioned in this Item. As of our 2023 fiscal year ended October 1, 2023, except as stated in this paragraph, neither we nor any of our affiliates is an approved supplier for products or services that are sold to Modern Market Eatery restaurants. However, we reserve the right to designate ourselves and any affiliates as an approved supplier, or as the only approved supplier, for particular products and services in the future.

If we require you to use an approved supplier for a particular item, but you wish to purchase the item from a supplier that we have not approved, you may submit a written request for approval of the supplier, unless it is an item for which we have designated a particular vendor as the source for the particular product or service. We will provide our standards and specifications to you or to the proposed supplier, subject to the supplier's execution of a confidentiality agreement in a form acceptable to us. We have the right to inspect the proposed supplier's facilities and to require delivery of product samples either to us or to an independent laboratory designated by us for testing. You may be required to pay a fee, which will not exceed our reasonable costs incurred in evaluating the supplier, regardless of whether or not we approve the supplier. You may not purchase, sell, or offer for sale any products or services of the proposed supplier until you receive our written approval of the proposed supplier. We generally will give you written notice of approval or disapproval of the proposed supplier within 30 days after receiving your request and completion of evaluation and testing, if required. You may not sell or offer for sale any products or services of the proposed supplier until you receive our written approval.

We have the right to revoke approval of particular suppliers if we determine that the suppliers or their products or services no longer meet our standards. Upon receipt of written notice of revocation, you must stop buying from the disapproved supplier. In addition, if we revoke our approval of the products because they fail to meet our standards, you may be required not to use your remaining inventory of those products.

Certain products or services may be provided by our parent or an affiliate, in which our officers and directors may own certain ownership interests; otherwise, none of our officers or directors owns an interest in any suppliers of products or services to our franchisees. In our last fiscal year, we and our affiliates did not receive any rebates or payments from approved suppliers on account of franchisee purchases or leases of required and approved items from those suppliers.

There currently are no purchasing or distribution cooperatives for the System. We and our affiliates may negotiate purchase arrangements with suppliers (including price terms) for the benefit of our franchisees and our affiliates for the items and services that you may obtain only from approved suppliers. In doing so, we and our affiliates seek to promote the overall interests of the Modern Market Eatery restaurant system. We do not provide material benefits to you (for example, renewal or granting additional franchises) based on your purchase of particular products or services or use of particular suppliers.

Proprietary Items

Any proprietary items are offered and sold at the Restaurant are manufactured according to our secret recipes and are our proprietary products (“**Proprietary Items**”). We may designate other Proprietary Items in the future. To maintain and protect our rights in and to our Proprietary Items, you must purchase Proprietary Items only from the supplier(s) that we designate periodically. To maintain the high standards of quality and uniformity associated with food sold at all Restaurants in the System, you must not offer or sell any items that are similar to (but not the same as) Proprietary Items at or from the Restaurant.

Lease

If you lease the premises for your Restaurant, you must submit the proposed lease to us for approval before you sign it and you must use our form of Lease Addendum attached as Exhibit E to the Franchise Agreement. See Item 11 under the heading “**Site Selection**” for additional details.

Furnishings, Fixtures and Equipment

We have identified a specific recommended brand and model for many of the furnishings, fixtures and equipment items required to equip a Modern Market Eatery restaurant. You must purchase these items only from approved suppliers, which may include us or an affiliate. We may negotiate with vendors for the price, warranties, guarantees, delivery costs, maintenance contracts, etc. We do not represent that we will be able to obtain for you the lowest costs or best terms available. The type and number of pieces of furnishings, fixtures and equipment you require will be based on the size of your Restaurant and where the Restaurant is located.

Point-of-Sale System and Other Computer System Requirements

For each Restaurant, you must purchase, install, and use the point of sale (POS) system, inventory management system, financial reporting system, back office computer, and other computer equipment, components and systems, communications devices, audio/visual equipment and software systems that we specify as they evolve over time. You must purchase this equipment new from our approved vendor.

Gift Cards

You must participate in programs we establish relating to gift cards, gift certificates, stored value cards, online or mobile coupons or credits, online or mobile ordering systems, and other electronic money programs. Participation includes both issuing program benefits or credits and accepting them for payment by guests. It also may require you to purchase additional equipment. We will coordinate the crediting and debiting of funds among Modern Market Eatery restaurants based on guest purchases and redemption of stored value. We may require you to both issue program benefits or credits and accept them for payment by guests, and we may require you to purchase additional equipment. We will coordinate the crediting and debiting of funds among Modern Market Eatery Restaurants in any “frequent guest” or guest loyalty programs we prescribe. You may not offer your own gift card, electronic money, or loyalty program for your Restaurant without our prior approval.

Insurance

Before undertaking any activities in connection with your franchise, you must obtain insurance policies meeting our current requirements, at your expense. This insurance must protect you, us, and our affiliates, officers, directors, shareholders and employees against all claims for personal injury, death, or property damage, or any loss, liability or expense arising from the operation of your Restaurant.

All insurance policies must be written by a carrier with a minimum A.M. Best rating of A+ (or any similar criteria that we periodically specify). You must provide us with certificates of insurance evidencing the proper types and at least the minimum amounts of coverage that we require no later than ten (10) days after any policy becomes effective. Liability policies must include Blanket Additional Insured by contract, naming us as an additional insured, and must provide notice of termination, expiration or cancellation of the policy within five (5) days of receipt of such notices, except for the Employment Practice Liability and Cyber Liability policies where codefendant wording is required.

As of the issuance date of this disclosure document, we require the following insurance:

Type of Insurance Policy	Coverage Requirements
Workers' Compensation and Employers' Liability	Coverage A: Statutory Coverage as required by the State in which the Work is performed Coverage B: Employers Liability Coverage \$1,000,000 each accident

Type of Insurance Policy	Coverage Requirements
	\$1,000,000 Disease, Policy Limit \$1,000,000 Disease, Each Employee
Commercial General Liability (occurrence form) including combined bodily injury and property damage; personal and advertising injury, general aggregate; products-completed operations aggregate. Contractual liability, cross-liability coverage should be included.	\$1,000,000 per occurrence
Commercial General Liability (occurrence form) Damage to rented premises	\$100,000
Commercial General Liability (occurrence form) Medical Expense	\$5,000
Commercial General Liability (occurrence form) Liquor Liability	\$1,000,000 per occurrence/\$2,000,000 aggregate
Business Auto Policy – Combined Bodily Injury and Property Damage Liability. Liability coverage must include owned, non-owned, and hired automobiles.	\$1,000,000
Umbrella Policy (occurrence form)	\$1,000,000 per occurrence/\$1,000,000 Aggregate excess of the Employers Liability, Commercial General Liability, and Automobile Liability on a following form basis. The policy shall provide coverage for defense costs outside the limit of liability.
Property Policy (special perils)	Full replacement cost value of the premises including signs, equipment breakdown (boiler), glass and all other property within or related to the premises. Coverage will include flood, windstorm and earthquake as required by us.
Employment Practices Liability	\$1,000,000 per claim/\$1,000,000 Aggregate
Cyber Liability – Network Security, Privacy & Media Liability	\$1,000,000

We have the right to increase the amounts of coverage required and require different or additional kinds of insurance at any time, including excess liability insurance, to reflect inflation, new risks, changes in the law or standards of liability, higher damage awards, or other relevant changes in circumstances.

All public liability and property damage policies must contain a waiver by the insurance company of subrogation rights against us and our affiliates, successors and assigns. If you fail to maintain the required coverage, we have the right (but no obligation) to obtain insurance on your behalf. If we do so, you must reimburse us for the cost of insurance, plus a reasonable fee for our services.

* * *

We estimate that approximately 80% to 90% of your total purchases and leases in establishing a Modern Market Eatery restaurant and approximately 80% to 90% of your total purchases and leases in operating a Modern Market Eatery restaurant will be subject to at least one of the restrictions described in this item.

ITEM 9 FRANCHISEE’S OBLIGATIONS

This table lists your principal obligations under the franchise and other agreements. It will help you find more detailed information about your obligations in these agreements and in other items of this disclosure document.

Obligation	Section in Franchise Agreement (FA) and Development Agreement (DA)	Disclosure Document Item
a. Site selection and acquisition/lease	FA: 3.2 – 3.4 DA: 3.2	5, 7, 8, 11 and 12
b. Pre-opening purchases/ leases	FA: 3.3-3.11 and 11 DA: Not Applicable	5, 7, 8 and 12
c. Site development and other pre-opening requirements	FA: 3 DA: 3	5, 6, 7, 8, 11 and 12
d. Initial and ongoing training	FA: 6 DA: 4.5	6, 7 and 11
e. Opening	FA: 3.11 and 3.12 DA: Not Applicable	11
f. Fees	FA: 3.2.3, 3.12, 4, 6.2, 6.5, 6.6, 8.4, 8.7, 8.12, 8.14, 8.18, 8.22, 8.27, 10.3, 10.7.2, 12.3, 12.4, 16.4.10, 16.5, 16.6, 16.7, 18.3, 19.5, 20.1.2, 20.3, 20.4, 21.2, 26.4, Exhibit A, Exhibit C, and Exhibit D 1(a) DA: 2 and 3.2.2	5, 6 and 7

Obligation	Section in Franchise Agreement (FA) and Development Agreement (DA)	Disclosure Document Item
g. Compliance with standards and policies/Operating Manual	FA: 7, 8 and 10 DA: 3	11 and 14
h. Trademarks and proprietary information	FA: 13 DA: Not Applicable	13 and 14
i. Restrictions on products/ services offered	FA: 8.2 - 8.8 DA: Not Applicable	8 and 16
j. Warranty and customer service requirements	FA: 8.14 and 8.18 DA: Not Applicable	Not Applicable
k. Territorial development and sales quotas	FA: 2.3 DA: 1.2 - 1.4, 3.1 and Exhibit A	1 and 12
l. Ongoing product/service purchases	FA: 8.2 – 8.3 DA: Not Applicable	6, 7 and 8
m. Maintenance, appearance and remodeling requirements	FA: 8.12 and 9.3 DA: Not Applicable	11
n. Insurance	FA: 11 DA: Not Applicable	7 and 8
o. Advertising	FA: 10 DA: Not Applicable	6 and 11
p. Indemnification	FA: 21 DA: 8.2	Not Applicable
q. Owner's participation/ management/staffing	FA: 6, 8.19-8.20, 14 and Exhibit B DA: 4 and Exhibit B	11 and 15
r. Records and reports	FA: 12 DA: Not Applicable	6
s. Inspections and audits	FA: 8.12, 8.13, 8.14 and 12.4 DA: Not Applicable	6 and 11
t. Transfer	FA: 16 DA: 6	17
u. Renewal	FA: 18 DA: Not Applicable	17
v. Post-termination obligations	FA: 20 DA: 7.5 and 7.6	17
w. Non-competition covenants	FA: 15 DA: 5.2	17
x. Dispute resolution	FA: 26	17

Obligation	Section in Franchise Agreement (FA) and Development Agreement (DA)	Disclosure Document Item
	DA: 13	
y. Other – Personal Guarantee	FA: Exhibit C DA: Exhibit C	15

**ITEM 10
FINANCING**

We do not offer direct or indirect financing to franchisees. We will not guarantee your promissory note, lease, or other obligation.

**ITEM 11
FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING**

Except as listed below, Modern Market Franchising, LLC is not required to provide you with any assistance.

Our Obligations Prior to Opening:

Before your Restaurant opens, we will:

1. Provide site selection criteria. (Franchise Agreement, Section 3.2.1)
2. Review sites you propose for your Restaurant. (Franchise Agreement, Section 3.2.3)
3. Review the lease for your Restaurant. (Franchise Agreement, Section 3.4)
4. Provide plans for a Modern Market Eatery restaurant. (Franchise Agreement, Sections 3.6.1 and 5.1)
5. Review your complete set of preliminary and final drawings and specifications, and notify you of our approval or rejection within 30 days. (Franchise Agreement, Section 3.6.2)
6. Provide access to the Manual on loan for the term of the Franchise Agreement. (Franchise Agreement, Sections 5.2 and 7) The table of contents for the Manual appears in Exhibit C of this disclosure document. As of the issuance date of this disclosure document, the Manual contains 143 pages.
7. Provide a training program. (Franchise Agreement, Sections 5.3 and 6)
8. Provide pre-opening and opening supervision and assistance, as we deem advisable. (Franchise Agreement, Section 5.4)

9. Review and approve in writing your proposed marketing plan and materials for use in connection with the “**Grand Opening Marketing**” of the Restaurant, as described below under “**Advertising**.” (Franchise Agreement, Section 10.2)

10. We may send representatives to the Restaurant to assist with opening. If provided, we anticipate this assistance will be for a period not to exceed 11 days. At our discretion, will charge a fee for such training which must be paid at least 60 days before the Restaurant opening date. You will be responsible for the costs for the travel and living expenses incurred by our trainers. (Franchise Agreement, Section 6.2)

Continuing Obligations

After your Restaurant opens, we will:

1. If established, administer the Brand Fund and make available to you for purchase any advertising and promotional materials that we may produce independently from the Brand Fund. (Franchise Agreement, Sections 5.6 and 10.3.4)
2. Provide advice and written materials concerning techniques of managing and operating a Modern Market Eatery restaurant. (Franchise Agreement, Section 5.7)
3. At your request, review any proposed supplier to determine whether the supplier and its products or services meet our standards. (Franchise Agreement, Section 8.4)

Site Selection and Construction

The procedure for constructing and opening a Modern Market Eatery restaurant is outlined in Section 3 of the Franchise Agreement and Section 3 of the Development Agreement. You must secure a site and construct your Restaurant at your own expense.

Within 90 days after you sign the Franchise Agreement, you must provide a site review kit to us including a complete site report and other materials and information we request for a suitable site located within the geographic area that you and we designate as your “**Site Selection Area**.” If you sign a Development Agreement, you must obtain our approval of a site and sign a Franchise Agreement for each restaurant by the date specified in the Development Schedule according to our then-current site selection criteria. Within 30 days after we receive your detailed site review kit, we or our designee will conduct an evaluation of the proposed site(s) and accept or reject your proposed sites. At our option, we may conduct an on-site evaluation of the proposed site(s). We do not charge any fees to conduct one market visit, however; if we require, or if you request, any additional market visits, we reserve the right to charge you a site selection assistance fee in the amount of \$500 and reimburse us for our travel expenses associated with such visits. We will not unreasonably withhold our acceptance of a site that meets our site selection criteria. In evaluating your proposed site, we will consider our then-current site selection criteria and demographic data you provide, as well as other information regarding the characteristics of the site and trade area including visibility, access, the proximity of competing businesses, traffic patterns, and the availability of parking. We also may consider the site’s proximity both to the Site Selection Area’s boundaries and to other existing or potential sites for Modern Market Eatery restaurants located outside the Site Selection Area.

The site that we accept will be designated as the “**Premises**” in Exhibit A to the Franchise Agreement. If we reject your proposed site, we will encourage you to submit alternative site(s). You must obtain our acceptance of a site and acquire a possessory or leasehold interest in the site for your Restaurant within 135 days after you sign the Franchise Agreement or we will have the right to terminate the Franchise Agreement.

We will furnish to you plans and specifications (which may be standard plans for interior space such as cooking lines, seating area, and guest queue, prototype plans or construction or as built plans for an existing restaurant) for a Modern Market Eatery restaurant. These plans may include requirements for dimensions, design, image, interior layout, décor, fixtures, equipment, signs, security, furnishings, and color scheme. It shall be your responsibility to have prepared all required construction plans and specifications to suit the shape, dimensions and utility requirements of the Premises, and you must ensure that these plans and specifications comply with applicable ordinances, building codes and permit requirements and with lease requirements and restrictions. You shall use only registered architects, registered engineers, and professional and licensed contractors who have been approved by us.

Prior to submission to local authorities, you must submit proposed construction plans, specifications and drawings for the Restaurant (“**Plans**”) to us and you must, upon our request, submit all revised or “as built” Plans during the course of such construction. We will approve or reject the Plans and notify you within 30 days after we receive the Plans. Once we have approved the Plans, no substantial change shall be made to the Plans without our prior approval. You may not begin site preparation or construction prior to receiving written notification from us that we have approved the Plans. You must construct the Restaurant in accordance with Plans approved by us and must comply in all respects with applicable laws, ordinances and local rules and regulations. You must install all furniture, fixtures, equipment and signs in accordance with the plans and specifications that we have approved. You are responsible for obtaining all zoning and health permits at your own expense.

It typically takes up to 135 days to select and lease the premises for a Modern Market Eatery restaurant from the signing of the Franchise Agreement and an additional 180 days to construct the restaurant. The actual time will vary depending on the availability of financing and the time you need to obtain the necessary permits and licenses for the construction and operation of the Restaurant. Neither of these factors is within our control. You must open the Restaurant by no later than 12 months after signing the Franchise Agreement or we will have the right to terminate the Franchise Agreement.

We estimate the time from acceptance of the site to the commencement of restaurant operations in an existing structure converted to a Modern Market Eatery is typically five (5) months to eighteen (18) months, depending on several factors. This overall development timeline will vary depending on the time necessary to lease the site, obtain financing, complete preparation of the construction documents, obtain the necessary permits and licenses for the construction and operation of the restaurant, address the condition of the existing space and its infrastructure, address the complexity of your proposed construction, and secure the required municipal inspections. None of these factors are within our control.

POS System and Computer System Requirements

You must acquire and install in your Restaurant, at your own expense, the point of sale (POS) system hardware and software, back office computers and other computer equipment (including a computer, monitor, and printer and iPads), digital menu boards, communications devices, audio/visual equipment, and software systems that we specify in writing from time to time. Our specifications may evolve over time and, in some cases, require items that may only be available through us and/or designated suppliers.

You must purchase POS systems and back office software and equipment from an approved vendor or in accordance with our specifications. You must transmit data to us at the times we specify and give us independent access to your systems (and provide us with any user names and passwords necessary for that purpose). There are no contractual limitations on our ability to access the information and data contained in your systems. We and our affiliates have the right to retain the information and to use it internally without restriction.

You also must purchase a computer for management use that uses a designated operating system and is capable of running the required software and a printer. The computer must have a high-speed interface that permits you to connect to the Internet and to transmit and receive email and access Internet websites. You must obtain the back-office software that we specify, including inventory management, on-line employee scheduling, payroll processing, accounting, payables, guest marketing, tips management, and other management and accounting software. In addition, you must obtain the software that we specify for reporting financial information to us. The type and number of computers and other hardware, software, and telecommunications equipment may vary depending on the size of your Restaurant.

You must pay all amounts charged by any supplier or licensor of the systems and programs you use, including charges for use, maintenance, support and/or update of these systems or programs. You must promptly update and upgrade your computer hardware and software systems as we require, at your expense. There is no contractual limitation on the cost or frequency of this obligation.

The estimated cost to purchase the required computer, POS and security systems is \$25,000 to \$35,000. The estimated costs for maintenance and support (such as help desk support) of the computer, POS and security systems range from \$110 to \$400 per Restaurant per month. In addition to the POS and computer support costs, certain approved suppliers or other third parties provide support and maintenance for other hardware, software and online services. Currently, these services cost between \$1,250 to \$2,500 monthly depending on the technology package selected which may include digital ordering systems, other online systems, email, catering, ordering and fundraising platforms, our learning management system (“LMS”) and other Internet related services. These fees can be increased upon notice. We do not provide any such maintenance or support; you will need to work with third party vendors. The estimated cost to purchase and install the upgraded or replacement computer, POS and security systems range from \$3,000 to \$15,000 per Restaurant. We estimate that you will need to upgrade the systems every three to five years and replace the systems every five to seven years. This estimate depends on improvements in the software, advances in technology, memory requirements or lifespan remaining when you purchase them. There is no limitation on the frequency or cost of this obligation. Upgrades, in some cases, may only be available through our suppliers.

You must honor all credit, charge, courtesy or cash cards or other credit devices that we specify. You must comply with the then-current Payment Card Industry Data Security Standards (PCI/DSS), as those standards may be revised by the PCI Security Standards Council, LLC (see www.pcisecuritystandards.org) or successor organization.

Training

Manager In Training Program

Your Operating Principal and any managers, owners or employees we designate must complete the Manager In Training program in a certified training restaurant to our satisfaction. Training may vary based upon the role of the attendee, but typically lasts up to 7 weeks, including a “seasoning” week of 5 days running shifts with the training General Manager. Portions of the training may be conducted at our office or at Modern Market Eatery Restaurants near our office in Denver, Colorado (or another location that we choose). We do not charge an extra fee for up to 4 people to attend the Manager In Training program.

We will certify any attendee who successfully completes the Manager In Training program to our satisfaction as a “**Trained Manager.**” We will authorize the Restaurant to open only after you have the required number of Trained Managers in the roles we require.

MANAGER IN TRAINING PROGRAM

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
Week 1 – Orientation & Kitchen training (Prep). Culinary Manager functions	12.5 hours	5 shifts/7.5 hours	Certified Training Restaurant
Week 2 – Line training: pizza, catering, sandwich	10 hours	5 shifts/8 hours	Certified Training Restaurant
Week 3 – Line training: salads, bowls	10 hours	5 shifts/8 hours	Certified Training Restaurant

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
Week 4 – Front of House training: Cashier, QA, Guest Relations	7.5 hours	5 shifts/8.5 hours	Certified Training Restaurant
Week 5 – Management training: Opening/Closing procedures, orders, scheduling	5 hours	5 shifts/9 hours	Certified Training Restaurant
Week 6 – Management training:	5 hours	5 shifts/9 hours	Certified Training Restaurant
Week 7 – Management training:	3 hours	5 shifts/9.5 hours	Certified Training Restaurant
Training Workshops (Alcohol responsibility class, Certified Trainer class, Food Safety Certification, “Coach in the Moment” class)	10 hours		Certified Training Restaurant
Total	63 hours	297 hours	

We will schedule the initial training program as needed for new franchisees and you must complete the program at least 30 days before opening your Restaurant. The program is offered only in English. Katy Stocks, our Director of Restaurant Services is responsible for coordinating the training placement at a certified training restaurant and monitoring progress of the trainees. Katy has more than 18 years of experience in restaurant operations, 6 years of experience in training and development and 6 years of experience with us.

The instructional materials may include handouts, the Manual, Manager In Training (MIT) Manual, Orientation Leader's Guide, participant guide, quizzes, and checklists, as well as self-guided web-based training, online learning materials, programs offered by third parties, classroom and on-the-job training.

Opening Team

We will send trainers to the Restaurant to assist with the Restaurant opening for a period not to exceed 11 consecutive days, which includes 7 days of pre-opening assistance and 4 days of support post open. This opening training will include on-site training for your managers and staff members, and additional support with opening management and activities. There is no additional fee for this assistance. If you request (and we in our discretion provide) or if we determine you need additional support, we will charge you a reasonable fee to provide such additional support.

Training Your Employees

Periodically, you must conduct such training programs for your employees as we may require, including those training programs required for your employees to become certified for the position(s) for which each employee was hired. Your Trained Managers are responsible for fully training the Restaurant's employees within 30 days of being hired. If we determine that your Trained Managers are no longer qualified to train your employees, then at our election, you must have them attend and successfully complete the training program and be re-certified as Trained Managers or designate replacement personnel to complete the program and be certified. You will be responsible for all costs that you incur in training your employees.

Train the Trainer Program

If you operate 3 or more Modern Market Eatery restaurants and we have approved and certified your Trained Managers to conduct the initial franchise management training program, before opening the third Restaurant: (1) your Operating Principal and any managers, owners or employees we designate must attend and complete the management training program that you conduct at one of your existing Modern Market Eatery Restaurants, unless the individuals previously completed that training program to our satisfaction; and (2) your Trained Managers must fully train the Operating Principal and any managers, owners or employees of the Restaurant and be responsible for providing the Opening Training. The content and administration of your training programs must be at least equal to those of our training programs and must be approved in advance by us. We will provide you with materials and, to the extent we deem it necessary or appropriate, assistance in designing and developing your training programs. We have the right to review your training programs periodically to ensure their quality and to verify that your personnel are being trained in a timely and satisfactory manner. We will notify you of any deficiencies in the training programs. You must promptly cure the deficiencies.

Additional Training Programs

We or local municipalities may require you or your employees to attend and pass additional training programs at your expense. These additional training programs may include classroom training, web-based training and programs offered by third parties.

Your Operating Principal and one other management person that we approve must attend a national business meeting or annual conference/retreat (or any similar meetings) of franchisees.

We will advise and consult with you periodically in connection with the operation of the Restaurant. We may provide these services through visits by our representatives to the Restaurant or your offices, the distribution of printed, filmed or electronic information, meetings or seminars, telephone communications, e-mail communications or other communications. We will periodically inspect the Restaurant and its operations to assist your operations and ensure compliance with the System. At your request, we may provide special assistance at the Restaurant for which you will be required to pay our per diem training fees and charges that we may establish.

Training Fees

If we elect to send our representative to the Restaurant to provide training for your staff, you must pay a training fee in the amount of \$250 per representative, per day, and all travel, living and other expenses incurred by our representative. If any person you send to training requires more training than our standard training program, you must pay a training fee in the amount of \$250 per person, per day, and all travel, living and other expenses incurred by the trainee. If, after we train the initial Operating Principal, you send any individuals to our management training program, you must pay a training fee in the amount of \$2,500 per person attending the management training program.

Advertising

Grand Opening Marketing Program

You must advertise and promote the Restaurant for a 90-day period beginning 30 days prior to opening through 60 days following the opening of the Restaurant (“**Grand Opening Marketing Period**”). You will develop a marketing plan for the Grand Opening Marketing Period (“**Grand Opening Marketing Plan**”) and marketing materials for the Restaurant (“**Grand Opening Marketing Materials**”) based on the brand standards and templates we provide. We must review and approve in writing the Grand Opening Marketing Plan and the Grand Opening Marketing Materials for the Restaurant, including total expenditures. You must spend at least \$15,000 during the Grand Opening Marketing Period.

Marketing Contributions and Expenditures

You must make contributions to the Brand Fund, make Local Store Marketing expenditures and contribute to a Cooperative if a Cooperative has been established in the Designated Market Area (“**DMA**”) in which your Restaurant is located. We are not required to spend any amount on advertising in your area or territory.

Brand Fund

We require you to contribute a percentage of your Gross Sales to the Brand Fund for the enhancement, promotion and protection of the System and the Proprietary Marks. We have the right to direct all advertising, media placement, marketing and public relations programs and activities financed by the Brand Fund, with final discretion over the strategic direction, creative concepts, materials and endorsements used, and the geographic, market and media placement and allocation. You must participate in all advertising, marketing, promotions, research, and public

relations programs instituted by the Brand Fund. The required contribution to the Brand Fund is currently 1% of Gross Sales. We have the right to require you to contribute up to 3% of Gross Sales to the Brand Fund.

Among the programs, concepts, and expenditures for which we may utilize the Brand Fund monies are: (1) creative development and production of print ads, commercials, radio spots, point of purchase materials, direct mail pieces, apps and social media or similar promotions, door hangers, free standing inserts, brochures, logo wear, labeling, video, audio, and written materials and electronic media, and other advertising and promotional materials; (2) media placement and buying, including all associated expenses and fees; (3) administering regional and multi-regional marketing and advertising programs; (4) the creative development of, and actual production associated with, premium items, giveaways, promotions, sweepstakes, contests, public relation events, and charitable or nonprofit events; (5) creative development of signage, posters, and individual Modern Market Eatery restaurant décor items including wall graphics; (6) recognition and awards events and programs including periodic national and regional conventions and meetings; (7) design, establishment, and maintenance of websites, extranets, intranets, search rankings, social media profiles, mobile applications and other digital marketing; (8) retention and payment of personalities engaged as spokespersons, advertising and promotional agencies, endorsement contracts, and other outside advisors including retainer and management fees; (9) sponsorship of sporting, charitable, or similar events; (10) review of locally produced marketing materials; (11) list acquisition and development; (12) association dues; (13) affinity program development; (14) development of third party facilities for the development of local advertising; and (15) public relations and community involvement activities and programs.

We may sell certain advertising materials, merchandise and premium items to you that are developed by the Brand Fund and the earnings from such sales will be deposited in the Brand Fund. The Brand Fund also may be used to pay for reasonable salaries and expenses of our and our affiliates' employees who work on advertising, marketing, public relations materials, programs, activities or promotions prepared, planned or undertaken on behalf of the Brand Fund and professional fees and administrative costs and overhead that we or our affiliates incur in activities reasonably related to the administration and activities of the Brand Fund (including accounting fees, legal fees, and interest on monies borrowed by the Brand Fund). We will not use the Brand Fund for anything whose sole purpose is the marketing of franchises, however, the System website, public relations activities, community involvement activities and other activities supported by the Brand Fund may contain information about franchising opportunities.

We may seek (but have no obligation to seek) the advice of Modern Market Eatery franchisees by formal or informal means with respect to the creative concepts and media used for programs financed by the Brand Fund. However, we retain final authority on all programs financed by the Brand Fund. We do not currently have an advertising council composed of franchisees, but we may establish one in the future.

We will prepare an annual, unaudited statement of Brand Fund collections and expenses within 90 days after our fiscal year end and will provide a copy of the statement to all franchisees. If there are unspent funds in the Brand Fund at the end of any given fiscal year, those unspent funds will carry over to the next fiscal year. We retain the final authority on all programs financed by the Brand Fund. We have the right to change or dissolve the Brand Fund at any time. If we disband the Brand Fund, we will spend all monies in the fund for advertising and/or promotional purposes or distribute all unspent monies to contributors in proportion to their respective Brand Fund contributions during the preceding 12 month period.

The Brand Fund (including any earnings on unspent funds) will be used to maximize general public recognition, acceptance, and patronage of Modern Market Eatery Restaurants. We are not obligated to make Brand Fund expenditures for you in the geographic area where your Modern Market Eatery Restaurant is located which are equivalent or proportional to your contributions, or to ensure that any particular franchisee benefits directly or pro rata from expenditures by the Brand Build Fund. The Brand Fund is not a trust and we have no fiduciary obligation in collecting payments, maintaining the bank account, bookkeeping, or disbursement of monies from the Brand Fund.

Modern Market Eatery restaurants operated by us and our affiliates will contribute to the Brand Fund on the same basis as comparable franchisees.

Local Store Marketing

We may require you to develop, on an annual basis, a Marketing Plan that we have approved for you, your Restaurant, and your market area. You must comply with all requirements regarding the Marketing Plan, including the use of approved advertising and marketing materials, placement and purchase of advertising and marketing materials and media, search engine optimization activities, and compliance with all promotional recommendations. If we require you to conduct such local advertising and marketing in your market area (“**Local Store Marketing**”) we may require you to spend an amount we determine, currently at least 1% of gross sales. Within 30 days after the end of each quarter, you agree to send to us, in the manner we prescribe, if requested, an accounting of your Local Store Marketing expenditures during the preceding quarter. If you fail to expend on an annual basis, the required amount, then you must contribute to the Brand Fund any amounts that you should have expended to reach the local advertising requirement within 30 days after the close of our fiscal year. We must approve all Local Store Marketing as described below.

Joint Marketing Programs and Cooperatives

We have the right to establish: (1) co-marketing programs in which we and our franchisees join with suppliers or other third parties to cross-promote goods and services; (2) joint marketing efforts in which multiple franchised and company-owned Modern Market Eatery restaurants contribute to a specific ad or event; and/or (3) local or regional Cooperatives that pool funds of franchised and company-owned Modern Market Eatery restaurants on an ongoing basis to jointly promote the Proprietary Marks and the Modern Market Eatery restaurants of the members. If established, you must participate in each applicable joint marketing program and comply with the rules of the program. The following provisions apply to Cooperatives:

- We have the right to designate any geographic area or set of common characteristics for purposes of establishing a Cooperative. If a Cooperative is applicable to your Restaurant, you must become a member and begin contributing. You will not have to contribute to more than one Cooperative for the same Restaurant at the same time. We (or our affiliates, as the case may be) will become a member of any Cooperative that is applicable to a Restaurant owned by us or our affiliates.
- Each Cooperative will adopt a cooperative agreement governing the organization and operation of the Cooperative, subject to our approval. If the members of the Cooperative do not sign an agreement within a reasonable time, you agree to sign our recommended form of Cooperative Agreement. We reserve the right to change the form of organization, governing documents, and manner of operation of any

Cooperative. No changes in the bylaws or other governing documents of a Cooperative may be made without our prior written consent.

- Each Cooperative will be organized for the exclusive purpose of developing, administering, and executing advertising programs for the members of the Cooperative. No advertising or promotional plans or materials may be used by a Cooperative or furnished to its members without our prior approval as described below.
- We may grant any franchisee an exemption for any length of time from the requirement of membership in a Cooperative, and/or from the obligation to contribute (including a reduction, deferral or waiver of the contribution), upon written request stating reasons that we deem sufficient to support the exemption. Our decision concerning any request for exemption will be final. If we grant an exemption to a franchisee, the franchisee will be required to spend on Local Store Marketing the amount the franchisee otherwise would have been required to contribute to the Cooperative.

Approval Requirement

All advertising and promotion by you and by any Cooperative must be in the type of media and format that we approve, must be conducted in a dignified manner, and must conform to our standards and requirements. You or the Cooperative must submit written samples of all proposed advertising and promotional plans and materials for our approval at least 15 days before their intended use, unless the plans and materials were prepared by us or have been approved by us within the last 12 months.

Electronic Marketing and Electronic Communications

We will host and maintain an independent location webpage for the Restaurant at an Internet address that we specify. We will provide and maintain this webpage using a standard template. You may not use, register, maintain, or sponsor any URL, social networking platform, blog, messaging system, email account, user name, text address, mobile application, or other electronic, mobile or Internet presence that uses or displays any of the Proprietary Marks (or any derivative thereof) or that promotes any products or services of the Restaurant. The use of any electronic medium constitutes advertising and promotion subject to our approval as described above. You may not transmit or cause any other party to transmit advertisements or solicitations by broadcast media, telephone, e-mail, text message, instant message, social network, VoIP, streaming media, or other electronic media without first obtaining our written consent as to: (1) the content of the advertisements or solicitations; and (2) the type of media intended to be used. All telephone answering messages, email auto-signatures, and other identifiers of the Restaurant must be in the form we prescribe. If we approve the use of an electronic medium, our approval will be conditioned on your compliance with any standards and procedures we issue with respect to that type of electronic medium, including the use of any disclaimers, warnings, and other statements that we may prescribe.

Pricing and Promotional Activities

To the extent permitted by applicable law, we have the right to establish maximum and/or minimum prices that you must follow for menu items, merchandise, and other products and services sold in the Restaurant. You must participate in and comply with the terms of special promotional events and activities that we prescribe for Modern Market Eatery restaurants generally or in specific geographic areas or for specific types of venues. These events and

activities may include value menu, special offer, limited time offer, coupons, and other pricing promotions and the featured price(s) may be less than your cost for the promoted item(s). If required by our agreement with a supplier, you may have to purchase a certain amount of products from the supplier in connection with a promotion and you might not be able to use or sell all of the products. You must bear your own costs of participating in these promotional events and activities. You must display promotional signs and materials and otherwise participate in the manner we specify.

ITEM 12 TERRITORY

You will not receive an exclusive territory under the Franchise or the Development Agreement. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. We will have no obligation to compensate you in connection with any such activities.

Franchise Agreement

Each Franchise Agreement is granted for the Restaurant Premises, which is a specific location that we accept. You must operate the Restaurant only at the Premises. The Franchise Agreement grants you certain territorial rights in a geographic radius referenced in an exhibit to the Franchise Agreement. The protected geographic territory (“Protected Territory”) will generally be a radius of two miles from the Franchised Restaurant, but may be a smaller or larger radius that we agree to before we sign the Franchise Agreement. During the term of the Franchise Agreement, we will not, without your consent, establish or franchise another to establish, a new Modern Market Eatery restaurant at any location that falls within your Protected Territory, except as follows: operating or licensing others to operate at any location (including within the Protected Area), during the Initial Term, any type of restaurant other than a Modern Market Eatery restaurant; selling anywhere (including within the Protected Area) the same or similar products that are authorized for sale at Modern Market Eatery restaurants under the Proprietary Marks or under other trademarks or trade dress and through any other channel of distribution, whether such channel of distribution is now in existence or is hereafter developed and whether at retail or wholesale including, without limitation, sales through catalogs, e-commerce, mail order, carts or kiosks, mass merchandise, supermarkets, restaurants, institutional guests, virtual kitchens, club stores and any other outlet or method of distribution, pursuant to any terms and conditions as we may deem appropriate; developing, owning and selling franchises for other franchise systems for the same or similar products and services using trade names and trademarks other than the Proprietary Marks that may operate in the Protected Area; purchasing, being purchased by, merging or combining with, businesses that directly compete with Modern Market Eatery restaurants and that may operate businesses in the Protected Area; and operating or licensing others to operate Modern Market Eatery restaurants at any Non-Traditional Facility inside the Protected Area. The term “**Non-Traditional Facility**” includes, among other things, college campuses, schools, hotels, resorts, hospitals, casinos, airports and other travel related facilities; federal, state, or local government facilities (including military bases); theme and amusement parks; recreational facilities; venues in which foodservice is or may be provided by a master concessionaire or contract foodservice provider; seasonal facilities; shopping malls; theaters; sporting event arenas and centers; gas stations, convenience stores.

Since we reserve certain rights in the Protected Area, you will not receive an exclusive territory under the Franchise Agreement. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. We will have no obligation to compensate you in connection with any such activities.

Relocation. You may not relocate the Restaurant without our prior written approval. We will base our review of your request on a variety of factors, including population density, the proximity of other Modern Market Eatery restaurants and other relevant demographic factors. If we approve a relocation of the Restaurant, you must pay a relocation fee in the amount of \$2,500.

Alternative Channels of Distribution. You receive the right to sell food and beverage items at retail to the public for carry-out and/or consumption on the Premises. The Franchise Agreement does not authorize you to sell products through other channels of distribution, such as the Internet, catalog sales, or telemarketing, or other direct marketing efforts. We may permit you to advertise the Restaurant through the Internet and other electronic means, but we have the right to approve and control any electronic, mobile or Internet presence that uses or displays any of our Proprietary Marks.

In addition, pursuant to our standards, we have a mandatory on-line ordering program and you may offer delivery. We may develop catering, fundraising, and/or other programs that may be mandatory or optional and we define the service area for these programs.

Development Agreement

Within 90 days after you sign the Franchise Agreement, you must provide a site review kit to us including a complete site report and other materials and information we request for a suitable site located within the geographic area that you and we designate as your “**Site Selection Area.**” If you sign a Development Agreement, you must obtain our approval of a site and sign a Franchise Agreement for each restaurant by the date specified in the Development Schedule according to our then-current site selection criteria. Within 30 days after we receive your detailed site review kit, we or our designee will conduct an evaluation of the proposed site(s) and accept or reject your proposed sites. At our option, we may conduct an on-site evaluation of the proposed site(s). We will not unreasonably withhold our acceptance of a site that meets our site selection criteria. In evaluating your proposed site, we will consider our then-current site selection criteria and demographic data you provide, as well as other information regarding the characteristics of the site and trade area including visibility, access, the proximity of competing businesses, traffic patterns, and the availability of parking. We also may consider the site’s proximity both to the Site Selection Area’s boundaries and to other existing or potential sites for Modern Market Eatery restaurants located outside the Site Selection Area.

During the term of the Development Agreement, we and our affiliates will not operate, or license others to operate, any new Modern Market Eatery restaurants in your Development Area, provided that you are in compliance with the terms of the Development Agreement and any other agreements with us and our affiliates and you are current on all obligations due to us and our affiliates. However, we may operate, and license others to operate, Modern Market Eatery restaurants in the Development Area that are open and operating or under development when you sign the Development Agreement. The procedures described above with respect to the designation of a Protected Territory under your Franchise Agreement will apply to each Restaurant that you develop under the Development Agreement.

We reserve the following rights in your Development Area: operating or licensing others to operate at any location, during or after the Term, any type of restaurant other than an Modern Market Eatery restaurant; selling anywhere (within or outside the Development Area) the same or similar products that are authorized for sale at Modern Market Eatery restaurants under the Proprietary Marks or under other trademarks or trade dress and through any other channel of distribution, whether such channel of distribution is now in existence or is hereafter developed and whether at retail or wholesale including, without limitation, sales through catalogs, e-commerce, mail order, carts or kiosks, mass merchandise, supermarkets, restaurants, institutional customers, club stores and any other outlet or method of distribution, pursuant to any terms and conditions as we may deem appropriate; developing and owning other franchise systems for the same or similar products and services using trade names and trademarks other than the Proprietary Marks; purchasing, being purchased by, merging or combining with, businesses that directly compete with Modern Market Eatery restaurants; and operating or licensing others to operate Modern Market Eatery restaurants at any Non-Traditional Facility or Captive Market Location inside or outside the Development Area. The term “**Non-Traditional Facility**” includes, among other things, college campuses, schools, hospitals, hotels, resorts, casinos, airports, gas stations, convenience stores and other travel related facilities; federal, state, or local government facilities (including military bases); theme and amusement parks; recreational facilities; venues in which foodservice is or may be provided by a master concessionaire or contract foodservice provider; seasonal facilities; shopping malls; theaters; and sporting event arenas and centers.

You will not receive an exclusive territory under the Development Agreement. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. We will have no obligation to compensate you in connection with any such activities.

Rights of First Refusal

We do not grant you any options, rights of first refusal, or similar rights to acquire additional franchises under either the Franchise Agreement or the Development Agreement.

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Affiliate Operations

We are affiliated with Qdoba, whose principal business address is 350 Camino De La Reina, Suite 400, San Diego, California 92108. Qdoba offers franchises for “Qdoba” restaurants, which are high-quality, Mexican-themed quick-service or fast-casual restaurants operated under the name “Qdoba” and related trademarks with a menu consisting of Mexican-themed food items including burritos, tacos, wraps, salads, soups, and quesadillas. As of October 1, 2023, there were 747 Qdoba restaurants in the United States and Canada, of which 176 were company operated and 571 were franchised.

In addition, certain of our parents and/or affiliates (and/or their owners), may in the future invest in other companies that offer franchises and/or own restaurant enterprises that may compete with the type of business being franchised under this disclosure document. We do not currently anticipate conflicts arising between franchisees of the Qdoba brand and franchisees of Modern Market Eatery, and as such, do not have a plan for how to resolve disputes regarding territory, guests and/or franchisor support in the event they arise. However, current and/or future outlets – as well as current and/or future restaurant enterprises owned, operated or invested in

by our parents and/or affiliates (and/or their owners) – may be located near your Modern Market Eatery restaurant.

Except as noted, we and our affiliates do not currently have any plans to operate, or offer franchises for, a business under a different trademark that will sell goods or services similar to those that are offered at Modern Market Eatery restaurants.

ITEM 13 TRADEMARKS

We grant you a non-exclusive license to use the Proprietary Marks during the term of the Franchise Agreement. We may also authorize you to use other current or future Proprietary Marks to operate your Restaurant. By Proprietary Marks, we mean trade names, trademarks, service marks and logos we use to identify Modern Market Eatery Restaurants and the products sold in them. ModMarket, LLC, our affiliate has registered the following marks and filed all required affidavits with the United States Patent and Trademark Office (“USPTO”) on the Principal Register:

Mark	Registration Date	Registration Number
Modern Market Farm Fresh Eatery	5/16/17	5205590
Modern Market	5/16/17	5205589
	01/07/2020	5957901
	6/30/20	6092222
	6/30/20	6092223
MODERN <u>market</u> EATERY	12/03/19	5926099

We have the right to use, and to license others to use, the Proprietary Marks in the United States under a non-exclusive, renewable Intellectual Property License Agreement between us and ModMarket, dated as of November 1, 2019 (“**License Agreement**”). Under the terms of this License Agreement, ModMarket licenses us to use and sublicense the Proprietary Marks. This license will remain in effect for fifty years and then automatically renew for ten-year renewal terms unless one party gives the other at least sixty days’ notice prior to the expiration of the then-current term. If the License Agreement is terminated, ModMarket will assume our rights and obligations under all existing third-party agreements (including, but not limited to the Franchise Agreements).

We intend to file all required affidavits and renewals for the Proprietary Marks listed above.

There are no currently effective determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state, or any court involving the principal mark, nor any pending infringement, opposition, or cancellation proceedings or material litigation involving the Proprietary Marks. We are not aware of any infringing uses that could materially affect your use of the Proprietary Marks. Other than the License Agreement noted above, there are no agreements that limit our rights to use or license the use of the Proprietary Marks and we are not aware of any superior rights that could affect your use of the Proprietary Marks. There are no agreements that limit our right to license the Proprietary Marks to you under the Franchise Agreement.

You must notify us of any unauthorized use of the Proprietary Marks. You must also notify us of any challenge to the validity of, or the right to use, any of the Proprietary Marks. We have the right to control any administrative proceeding or litigation that involves the Proprietary Marks. This right includes the right to settle any of those disputes. We may, but are not required to, try to stop other people from using the Proprietary Marks.

We will defend you against any infringement claims that arise from your use of the Proprietary Marks or the Works (as defined in Item 14) at our expense, including the cost of any judgment or settlement, if your use of the Proprietary Marks and the Works complied with the Franchise Agreement, but at your expense if your use of the Proprietary Marks and the Works did not comply with the Franchise Agreement. You must assist us in any action we take to protect the Proprietary Marks. Unless this action results from your inappropriate use of the Proprietary Marks, we will reimburse you for your out-of-pocket costs in assisting us.

You must follow our rules when you use the Proprietary Marks. You may not use any of the Proprietary Marks as part of your corporate name, Internet domain name, or e-mail address, or with modifying words, designs or symbols. You may not use the Proprietary Marks for the sale of an unauthorized product or in any other manner not authorized by the Franchise Agreement.

We can modify the Proprietary Marks and/or substitute different marks for use in identifying Modern Market Eatery restaurants and the System. You must promptly implement any modification or substitution at your own cost and expense.

ITEM 14 PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

Patents

No patents are material to the operation of your Restaurant.

Copyrights

We and our affiliates claim copyright protection for certain proprietary materials (the “**Works**”), which include, but are not limited to, the Manual, training materials, advertisements, promotional materials, labels, menus, posters, coupons, gift certificates, signs, websites, store designs, and prototype plans and specifications. Neither we nor our affiliates have registered the copyrights in any of the Works but we are not required to do so. You can use the Works only for the purpose of developing and operating your Restaurant. You must notify us of any unauthorized use of the Works. You must also notify us of any challenge to the validity of, or the right to use,

any of the Works. We have the right to control any administrative proceeding or litigation that involves the Works. This right includes the right to settle any of those disputes. We may, but are not required to, try to stop other people from using the Works. If we require you to modify or discontinue use of any Works, you must modify or discontinue use of such Works and you have no right to compensation from us.

We claim proprietary rights in certain menu items associated with Modern Market Eatery restaurants including our proprietary recipes. We protect the recipes and manufacturing processes for these items as trade secrets.

The Manual and Confidential Information

We will loan you one copy of, or electronic access to, the Manual, which contains information and knowledge that is unique, necessary and material to the System. The Manual contains detailed standards, specifications, instructions, requirements, methods and procedures for management and operation of the Restaurant. The Manual also may relate to the selection, purchase, storage, preparation, packaging, ingredients, recipes, service and sale of all products and beverages sold at the Restaurant; management and employee training; marketing, advertising and sales promotions; maintenance and repair of the Restaurant building, grounds, equipment, graphics, signs, interior and exterior décor items, fixtures and furnishings; employee dress attire and appearance standards; menu concept and graphics; and accounting, bookkeeping, records retention and other business systems, procedures and operations. You must at all times to operate the Restaurant in strict conformity with the Manual; maintain the Manual at the Restaurant; not reproduce the Manual or any part of it; and treat the Manual as confidential and proprietary, and; disclose the contents of the Manual only to your employees who have signed a confidentiality agreement and who have a demonstrated need to know the information contained in the Manual.

At our request, you must require your employees, landlord, contractors, and any other person to whom you wish to disclose any of our confidential information to agree in writing not to disclose that information to others or to use it for their own benefit. We must approve these agreements.

Guest Data

We claim ownership of the guest data you obtain during the operation of your Restaurant. This includes all databases (whether in print or electronic form) including names, addresses, phone numbers, e-mail addresses and guest purchase data. We reserve the right to use or transfer these records as we deem appropriate and to provide the information to our affiliates. Furthermore, we reserve the right to contact guests of the Restaurant, as well as your employees, suppliers and other service providers, for purposes of conducting quality control, market research and for other business reasons as we deem appropriate.

ITEM 15
OBLIGATION TO PARTICIPATE IN THE
ACTUAL OPERATION OF THE FRANCHISE BUSINESS

If you sign a development agreement, you must designate an owner as your Development Principal who will be the person with whom we communicate and whom will have the authority to bind you with respect to all financial, operational and legal matters related to the development of the Restaurants. The Development Principal must be approved by us. The Development Principal shall successfully complete our development training program (if any). You must designate a replacement approved by us within thirty (30) days after your Development Principal ceases to qualify as the Development Principal. The Development Principal and the Operating Principal can be the same owner.

When you sign a franchise agreement, you must designate an owner as your Operating Principal, who must be acceptable to us. The Operating Principal must be substantially involved in the day-to-day operation of the Restaurant and will be the person with whom we communicate and must have the authority to bind you with respect to all financial, operational and legal matters related to the Restaurant and the Franchise Agreement. You must designate a replacement within 30 days after your Operating Principal leaves his or her position. The Development Principal and the Operating Principal can be the same owner and the Operating Principal can be the same owner for multiple Restaurants.

For each Restaurant, you must also designate a General Manager or Assistant General Manager who will be responsible for the day to day operations of the Restaurant in the absence of the Operating Principal. Your General Manager or Assistant General Manager does not have to own an equity interest in the franchise. The General Manager or Assistant General Manager may cover multiple Restaurants.

Each Operating Principal, and any managers, owners or employees we designate, must successfully complete our management training program (see Item 11). We may require that the Development Principal, Operating Principal, employees, among others, sign an agreement with you not to compete with Modern Market Eatery restaurants for a period after their employment with you. We may also require that you have them sign an agreement not to reveal confidential information they obtain in the course of their employment with you. These agreements must be in a form we approve and specifically identify us as a third party beneficiary with the independent right to enforce the agreement. See Items 14 and 17 for further information.

If you are a legal entity, each your owners (including the Development Principal and Operating Principal), officers, directors, and limited liability company managers must sign and personally guarantee all of your obligations to us. The personal guarantee includes a commitment to be bound personally by the confidentiality and non-competition provisions of the Development or Franchise Agreement.

**ITEM 16
RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You must not use the Franchised Restaurant for any other business operations or any other purpose or activity at any time without first obtaining our prior written consent. You must offer for sale in each Restaurant all products and services that we designate as required items. You may also offer for sale any optional items and services that we have approved for sale in a Modern Market Eatery restaurant. You may not offer or sell any products or services not listed without obtaining our prior written consent. You must sell products only in the weights, sizes, forms, and packages that we have approved. You must cease selling or offering for sale any products or services that we disapprove at any time. We may change the types of authorized products and services, and there are no limits on our right to make changes.

You must participate in promotional activities that we require generally for Modern Market Eatery restaurants in the System. If we require that you conduct any promotional activities, you will bear your own costs of conducting these activities.

**ITEM 17
RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

THE FRANCHISE RELATIONSHIP

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

Provision	Section in Franchise Agreement (FA) or Development Agreement (DA)	Summary
a. Length of the franchise term	FA: 2.2 DA: 7.1	FA: 10 years following the Opening Date. DA: The term expires on the earlier of the opening date or the opening deadline for the last Restaurant you commit to develop in the Development Schedule.
b. Renewal or extension of the term	FA: 18.1 DA: Not Applicable	FA: Provided we are still franchising and have not made a decision to withdraw from the geographic market of the Restaurant, and if you are in good standing, you can renew the franchise for a 10-year term.
c. Requirements for you to renew or extend	FA: 18.2 & 18.3 DA: Not Applicable	FA: Provide written notice of intent to renew; be in compliance with other agreements with us; demonstrate right to remain in possession of the Premises; agree to renovate the Restaurant; meet our standards for new franchisees; sign renewal franchise agreement, sign general release and pay

Provision	Section in Franchise Agreement (FA) or Development Agreement (DA)	Summary
		<p>\$15,000 renewal franchise fee. The renewal franchise agreement may contain terms that are materially different from your expiring Franchise Agreement, such as different fee requirements; provided that term and renewal conditions will be included in any renewal franchise agreement, but will not include an initial franchise fee.</p>
d. Termination by you	Not Applicable	<p>You may not terminate either the Franchise Agreement or Development Agreement.</p>
e. Termination by us without cause	DA: 7.2 - 7.5	<p>We may not terminate either the Franchise Agreement or the Development Agreement without cause.</p> <p>You may develop and open any Restaurants for which you have executed Franchise Agreements prior to the date of expiration or termination of the Development Agreement and continue to operate Restaurants that are open and operating as of the date the Development Agreement expires or terminates.</p>

Provision	Section in Franchise Agreement (FA) or Development Agreement (DA)	Summary
f. Termination by us with cause	FA: 19 DA: 7.2 - 7.5	<p>We may terminate the Franchise Agreement and the Development Agreement only if you or your owners commit any one of several violations.</p> <p>In addition to our right to terminate the Development Agreement, we may (1) temporarily suspend your rights to develop additional Modern Market Eatery restaurants in any part of the Development Area; (2) reduce the size of the Development Area; or (3) extend the Development Schedule.</p> <p>You may develop and open any Restaurants for which you have executed Franchise Agreements prior to the date of expiration or termination of the Development Agreement and continue to operate Restaurants that are open and operating as of the date the Development Agreement expires or terminates.</p>
g. "Cause" defined - defaults which can be cured	FA: 19.3 DA: 7.2 – 7.6	<p>FA: You have five days to cure non-payment of fees or non-submission of reports and 30 days to cure other defaults, except for those described in h. below.</p> <p>DA: You have five days to cure non-payment of fees and 30 days to cure other defaults, except for those described in h. below.</p> <p>You may develop and open any Restaurants for which you have executed Franchise Agreements prior to the date of expiration or termination of the Development Agreement and continue to operate Restaurants that are open and operating as of the date the Development Agreement expires or terminates.</p>
h. "Cause" defined - noncurable defaults	FA: 19.1 and 19.2 DA: 7.2, 7.3, and 7.5	FA: Non-curable defaults: insolvency, bankruptcy; failure to complete training; failure to timely identify a site and open the Restaurant; abandonment; loss of possession of the Premises; default on material

Provision	Section in Franchise Agreement (FA) or Development Agreement (DA)	Summary
		<p>indebtedness; commission of felony; threat to public safety; unapproved transfers; operating a Competing Business (see q. below); disclosure of trade secrets; filing false reports; repeated defaults even if cured; default of any other agreements between you or your affiliates and us or our affiliates; and others.</p> <p>DA: Non-curable defaults: failure to meet your development obligations; disclosures of trade secrets; operating a Competing Business; unauthorized transfer; material misrepresentation; filing false reports; conviction of felony; termination of any franchise agreement between you or your affiliates and us or our affiliates; and others.</p> <p>You may develop and open any Restaurants for which you have executed Franchise Agreements prior to the date of expiration or termination of the Development Agreement and continue to operate Restaurants that are open and operating as of the date the Development Agreement expires or terminates.</p>
i. Your obligations on termination/ non-renewal	FA: 20 DA: 7.5	<p>FA: Obligations include closing the Restaurant, de-identifying the Premises; paying amounts due and early termination damages (if applicable) in the amount of the fees owed for the past one year period multiplied by the lesser of 12 months or the remaining initial term of the Franchise Agreement, and return our proprietary materials (also see o. and r. below).</p> <p>DA: no further right to develop Restaurants.</p>
j. Assignment of contract by us	FA: 16.1 DA: 6.1	There are no restrictions on our right to assign.
k. "Transfer" by you – definition	FA: 16.2 DA: Not applicable	FA: Restrictions apply to transfer of any direct or indirect interest in the Agreement, in you (if you are a corporation or other entity), or in substantially all of the assets of the Restaurant.

Provision	Section in Franchise Agreement (FA) or Development Agreement (DA)	Summary
l. Our approval of transfer by you	FA: 16.2 DA: Not applicable	FA: We have the right to approve all transfers.
m. Conditions for our approval of transfer	FA: 16.4 DA: Not applicable	FA: Transferee qualified; accrued fees paid; no default exists; sales price reasonable; transferee signs new agreement; training arranged, and transfer training fee paid; transferee agrees to upgrade and remodel the Restaurant; you sign release and pay transfer fee.
n. Our right of first refusal to acquire your business	FA: 16.3 DA: Not Applicable	We have the right to match any offer.
o. Our option to purchase your business	FA: 20.2 DA: Not Applicable	Upon expiration or termination of the Franchise Agreement, we can take assignment of your lease, purchase your beer and liquor license, and purchase the Restaurant assets.
p. Your death or disability	FA: 16.6 DA: Not Applicable	Executor or personal representative must assign your interest to approved party within three months. If the deceased or incapacitated person is the Operating Principal, we have the right to manage operation of the Restaurant until the transfer is completed. If we exercise this right, we can charge a reasonable management fee for our services.
q. Non-competition covenants during the term of the franchise	FA: 15.2 DA: 5.2	No diverting guests to a Competing Business and no involvement in a “Competing Business” defined as restaurant business: (1) that has freshly prepared menu items as a primary menu item (i.e., sales of such menu items comprise at least 20% of sales) or that offers any individual menu item that comprises at least 20% of sales at Modern Market Eatery restaurants; or (2) whose method of operation or trade dress is similar to that employed in the System.

Provision	Section in Franchise Agreement (FA) or Development Agreement (DA)	Summary
r. Non-competition covenants after the franchise is terminated or expires	FA: 15.2 DA: 5.2	FA: No involvement with any Competing Business for two years within three miles of the Premises or within three miles of any other Modern Market Eatery restaurant. DA: No involvement with Competing Business for two years within the Development Area, within three miles of the border of the Development Area or within three miles of any other Modern Market Eatery restaurant.
s. Modification of the agreement	FA: 25 DA: 12	No modification generally without signed agreement, but we may modify the System and the Manual.
t. Integration/ merger clause	FA: 25 DA: 12	Only the terms of the Franchise Agreement and Development Agreement are binding (subject to state law). Any representations or promises outside of the disclosure document, Franchise Agreement and Development Agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	Not Applicable	Not Applicable
v. Choice of forum	FA: 26.2 DA: 13.2	Subject to state law, all claims brought by you must be filed in the judicial district where we have our principal place of business, which is currently Denver, Colorado. We will file suit in the federal or state court located in the judicial district where our principal offices are located at the time of suit, in the jurisdiction where you reside or do business, where the Restaurant is or was located, or where the claim arose.
w. Choice of law	FA: 26.1 DA: 13.1	Subject to state law, the law of the state in which we have our principal place of business (currently Denver, Colorado).

**ITEM 18
PUBLIC FIGURES**

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

ITEM 19
FINANCIAL PERFORMANCE REPRESENTATIONS

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

The included company-owned and franchised restaurants in Tables 1, 2, and 3 below are located in both urban and suburban metropolitan areas. The location and the demographics of the geographic area can have a material impact on a restaurant’s revenues and expenses, and therefore, operating results. The included company-owned and franchised restaurants do not have any material financial or operational characteristics that we reasonably anticipate will be different from franchised restaurants. The included licensed restaurants in Table 4 below are located in non-traditional locations in Denver International Airport and the University of Notre Dame, which have different financial or operational characteristics than franchised restaurants.

The information in the tables was prepared using our internal financial records and has not been audited; however, we maintain our records in accordance with generally accepted accounting practices and we believe the information is reliable.

Franchised Restaurants. Table 1 includes historical actual financial performance representations for all 3 franchised restaurants for the trailing twelve months ended October 1, 2023 (the “TTM”), all of which were open and operating for at least 1 year as of the end of the TTM and were not closed more than 7 operating days in the TTM.

Table 1:

Franchisee-Operated Restaurants	Restaurant Gross Sales
Restaurant 1	\$3,070,654
Restaurant 2	\$2,848,629
Restaurant 3	\$2,630,322

Company-Owned Restaurants. Tables 2 and 3 include historical actual financial performance representations for 18 company-owned restaurants that were open for at least 1 year as of the end of the TTM and that were not closed for more than 21 operating days in the TTM. We excluded 4 company-owned restaurants that do not represent the real estate profile we will use for franchised Modern Market Eatery restaurants: Ahwatukee, Arizona; North Scottsdale, Arizona; Littleton, Colorado; and Southglenn, Colorado. Additionally, we excluded the results for 1 company-owned restaurant that was opened in the middle of the 2023 fiscal year and not open for at least 1 year as of the end of the TTM.

Table 2: Table 2 includes the average and median as well as the low and high for the 18 restaurants covered.

Category	Average	% of Net Sales	Median	% of Net Sales	Low	High
Number of Restaurants	18		18			
Gross Sales (1)	\$ 2,232,664	105.2%	\$ 2,140,698	105.4%	\$ 1,090,844	\$ 4,135,749
Number and Percentage of Restaurants Reported that Met or Exceeded Average or Median Gross Sales	8	44.4%	7	38.9%		
Discounts (2)	\$ 110,094	5.2%	\$ 108,927	5.4%	\$ 49,495	\$ 227,597
Net Sales (3)	\$ 2,122,570	100.0%	\$ 2,031,771	100.0%	\$ 1,041,349	\$ 3,908,152
COGS (4)	\$ 671,556	31.6%	\$ 647,597	31.9%	\$ 341,898	\$ 1,237,869
Gross Profit (5)	\$ 1,451,014	68.4%	\$ 1,384,174	68.1%	\$ 699,451	\$ 2,670,283
Labor (6)	\$ 596,262	28.1%	\$ 554,261	27.3%	\$ 365,066	\$ 914,934
Other Operating Expenses (7)	\$ 346,458	16.3%	\$ 307,165	15.1%	\$ 235,918	\$ 672,951
Occupancy Costs (8)	\$ 179,215	8.4%	\$ 190,061	9.4%	\$ 62,125	\$ 216,031
Restaurant EBITDA (9)	\$ 329,079	15.5%	\$ 332,687	16.4%	\$ 36,342	\$ 866,367
Number and Percentage of Restaurants Reported that Met or Exceeded Average or Median Restaurant EBITDA	7	38.9%	8	44.4%		
Imputed Royalty Fee (10)	\$ 106,128	5.0%	\$ 101,589	5.0%	\$ 52,067	\$ 195,408
Imputed Brand Fund Fee (11)	\$ 21,226	1.0%	\$ 20,318	1.0%	\$ 10,413	\$ 39,082
Imputed Local Advertising Fee (12)	\$ 21,226	1.0%	\$ 20,318	1.0%	\$ 10,413	\$ 39,082
Restaurant EBITDA (adjusted for Royalty, Brand Fund, and Local Advertising)	\$ 180,499	8.5%	\$ 190,463	9.4%	\$ (36,551)	\$ 631,877

Table 3: Table 3 includes averages by quartile for the 2023 fiscal year.

Category	Top Quartile		Second Quartile		Third Quartile		Bottom Quartile	
	\$	%	\$	%	\$	%	\$	%
Number of Restaurants	4		5		4		5	
Gross Sales (1)	\$ 3,492,321	105.0%	\$ 2,369,815	105.3%	\$ 1,814,461	105.5%	\$ 1,422,350	105.0%
Number and Percentage of Restaurants Reported in Quartile that Met or Exceeded Gross Sales	2	50.0%	2	40.0%	1	25.0%	4	80.0%
Discounts (2)	\$ 166,904	5.0%	\$ 119,660	5.3%	\$ 94,718	5.5%	\$ 67,382	5.0%
Net Sales (3)	\$ 3,325,417	100.0%	\$ 2,250,155	100.0%	\$ 1,719,744	100.0%	\$ 1,354,969	100.0%
COGS (4)	\$ 1,045,806	31.4%	\$ 703,483	31.3%	\$ 556,337	32.3%	\$ 432,406	31.9%
Gross Profit (5)	\$ 2,279,611	68.6%	\$ 1,546,672	68.7%	\$ 1,163,407	67.7%	\$ 922,563	68.1%
Labor (6)	\$ 839,369	25.2%	\$ 624,378	27.7%	\$ 536,248	31.2%	\$ 421,673	31.1%
Other Operating Expenses (7)	\$ 547,494	16.5%	\$ 397,839	17.7%	\$ 323,229	18.8%	\$ 265,079	19.6%
Occupancy Costs (8)	\$ 302,574	9.1%	\$ 242,631	10.8%	\$ 209,526	12.2%	\$ 147,095	10.9%
Restaurant EBITDA (9)	\$ 590,174	17.7%	\$ 281,824	12.5%	\$ 94,404	5.5%	\$ 88,716	6.5%
Number and Percentage of Restaurants Reported in Quartile that Met or Exceeded Restaurant EBITDA	2	50.0%	2	40.0%	1	25.0%	2	40.0%
Imputed Royalty Fee (10)	\$ 166,271	5.0%	\$ 112,508	5.0%	\$ 85,987	5.0%	\$ 67,748	5.0%
Imputed Brand Fund Fee (11)	\$ 33,254	1.0%	\$ 22,502	1.0%	\$ 17,197	1.0%	\$ 13,550	1.0%
Imputed Local Advertising Fee (12)	\$ 33,254	1.0%	\$ 22,502	1.0%	\$ 17,197	1.0%	\$ 13,550	1.0%
Restaurant EBITDA (adjusted for Royalty, Brand Fund, and Local Advertising)	\$ 357,395	10.7%	\$ 124,312	5.5%	\$ (25,977)	-1.5%	\$ (6,132)	-0.5%

The following terms used in the tables above are defined below for this Item 19:

- (1) **“Gross Sales”** means the aggregate amount of all revenues generated from the sale of all products and services sold and all other income of every kind related to the Restaurant, whether for cash or credit (and regardless of collection in the case of credit), whether from sales on the Premises, by delivery, from catering, or at wholesale (whether the sales method is permitted or not). Gross Sales are not reduced by the amount of any discounts provided to employees, family members and other businesses in our control. The following are not included in Gross Sales: (1) sales taxes or other taxes collected from customers for transmittal to the appropriate taxing authority (2) proceeds from the sale of gift cards or stored value cards; and (3) customer refunds made in good faith.
- (2) **“Discounts”** means all discounts, coupons, and giveaways. We provide free or discounted meals to team members and corporate staff; franchisees will not be required to do so. We have excluded these meals from all information.

- (3) **“Net Sales”** equals Gross Sales minus Discounts as defined in notes 1 and 2.
- (4) **“COGS”** means our cost for food, paper and packaging, including dine-in, take out, to-go, online web orders, catering food and beverage, and associated inventory.
- (5) **“Gross Profit”** equals Net Sales minus COGS as defined in notes 3 and 4.
- (6) **“Labor”** costs include employee wages and benefits, employee training expenses, payroll taxes, corporate insurance allocations for group health, workers’ compensation and vacation pay. Note we include hourly and management labor costs, but we do not include any salary and overhead for field supervision. Labor also does not include tip wages which are based on each individual restaurant’s tip pool. Other benefits which you elect to provide your employees, such as the amount of vacation time and vacation pay, are factors that will affect labor cost. The costs of providing group health insurance for employees and workers’ compensation insurance will vary depending on many factors, including where you operate, the extent and amount of coverage provided, the loss experience of the group, and which insurance provider is chosen. Therefore, you may encounter higher relative costs in obtaining comparable insurance coverage. Note, we attempt to pay above market wages to team members in our company-owned restaurants.
- (7) **“Other Operating Expenses”** include repairs and maintenance, smallwares, cleaning supplies, office supplies, POS maintenance, pest control, delivery charges, credit card processing fees, bank charges, telephone and internet expenses, trash services, equipment rental, property and liability insurance, security expenses, license and business taxes, cost of utilities, and other miscellaneous expenses. This amount excludes discretionary promotional marketing expenses to promote the restaurants through a third-party marketplace not related to regular ongoing fees paid. We have also excluded any repair and maintenance expenses greater than 0.5% of Net Sales because we believe our costs in this category are higher than what you will experience.
- (8) **“Occupancy Costs”** includes all rent, property taxes, property insurance and general liability insurance and any additional fees or miscellaneous items relating to the leasing of the premises. Rent consists of minimum rents, percentage rents, common area maintenance charges, and any sales or other taxes imposed thereon and paid by us. Property taxes are real estate taxes and assessments levied against the property upon which the Restaurant is located. The amount or rate of taxation varies from jurisdiction to jurisdiction and you should consult with your tax advisors regarding the impact that these taxes will have on this analysis.
- (9) **Restaurant EBITDA.** “EBITDA” means earnings before interest, taxes, depreciation and amortization. We calculate EBITDA by subtracting the average COGs, Labor Costs, Other Operating Expenses and Occupancy Costs for the fiscal year 2023 from the average Net Sales for the fiscal year 2023. We do not include costs for interest and other debt service costs, taxes, depreciation or amortization because they vary considerably depending on the particular organization and typically are excluded when calculating the free cash flow from a Restaurant’s operations.
- (10) **Imputed Royalty Fee.** We imputed the current 5% Royalty Fee into our calculations to adjust EBITDA for the Royalty Fee you pay to us.

(11) Imputed Brand Fund Fee. We imputed the current Brand Fund Fee of 1% to adjust EBITDA for your Brand Fund contribution. Note our company-owned Restaurants will also contribute 1% to the Brand Fund along with our franchisees.

(12) Imputed Local Advertising Fee. We imputed the current 1% Local Advertising Fee into our calculations to adjust EBITDA for the Local Advertising Fee you pay to us.

Non-Traditional Licensed Restaurants. Our affiliate ModMarket Licensing, LLC has entered into 3 license agreements for units located in Denver International Airport (2 units) and the University of Notre Dame (1 unit). Table 4 includes historical actual financial performance representations for all 3 licensed restaurants for the TTM, all of which were open and operating for at least 1 year as of the end of the TTM and were not closed more than 7 operating days in the TTM. Restaurants 1 and 2 represent units located in Denver International Airport and Restaurant 3 represents the unit located at the University of Notre Dame.

Table 4:

Licensee-Operated Restaurants	Net Sales
Restaurant 1	\$ 4,969,068.79
Restaurant 2	\$3,787,266.52
Restaurant 3	\$1,738,982.04

Some outlets have earned this amount. Your individual results may differ. There is no assurance that you will earn as much.

We encourage you to review this material with your attorney, accountant or other advisor. Written substantiation for the financial performance representation will be made available to you upon reasonable request.

Other than the preceding financial performance representation, Modern Market Franchising, LLC, does not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to our management by contacting Mel Tucker, Secretary and Treasurer, 350 Camino de la Reina, San Diego, CA 92108, 623-293-2961, the Federal Trade Commission and the appropriate state regulatory agencies.

**ITEM 20
OUTLETS AND FRANCHISEE INFORMATION**

**Table No. 1
Systemwide Outlet Summary
For Years 2021 to 2023***

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised Outlets	2021	0	0	0
	2022	0	3	3
	2023	3	3	0
Company-Owned Outlets	2021	25	25	0
	2022	25	22	-3
	2023	22	23	1
Total Outlets	2021	25	25	0
	2022	25	25	0
	2023	25	26	1

* The numbers for 2021 are as of December 31. The numbers for 2022 and 2023 are as of October 2, 2022, and October 1, 2023, respectively, the respective fiscal year ends.

**Table No. 2
Transfers of Outlets from Franchisees to New Owners
(Other than the Franchisor)
For Years 2021 to 2023***

State	Year	Number of Transfers
Total	2021	0
	2022	0
	2023	0

* The numbers for 2020 are as of December 31. The numbers for 2022 and 2023 are as of October 2, 2022, and October 1, 2023, respectively, the respective fiscal year ends.

**Table No. 3
Status of Franchised Outlets
For Years 2021 to 2023***

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
Texas	2021	0	0	0	0	0	0	0
	2022	0	3	0	0	0	0	3
	2023	3	0	0	0	0	0	3
Total	2021	0	0	0	0	0	0	0
	2022	0	3	0	0	0	0	3
	2023	3	0	0	0	0	0	3

* The numbers for 2020 are as of December 31. The numbers for 2022 and 2023 are as of October 2, 2022, and October 1, 2023, respectively, the respective fiscal year ends. States not listed had no activity to report.

Our affiliate ModMarket Licensing, LLC has entered into 3 license agreements for units located in Denver International Airport (2 units) and the University of Notre Dame (1 unit). The 3 licensed Modern Market Eatery Restaurants were licensed pursuant to exemptions under any applicable federal and state franchise laws.

**Table No. 4
Status of Company-Owned Outlets
For Years 2021 to 2023***

State	Year	Outlets at Start of Year	Outlets Opened	Reacquired from Franchisees	Outlets Closed	Outlets Sold to Franchisees	Outlets at End of the Year
Arizona	2021	3	0	0	0	0	3
	2022	3	0	0	0	0	3
	2023	3	0	0	0	0	3
Colorado	2021	14	0	0	0	0	14
	2022	14	0	0	0	0	14
	2023	14	1	0	0	0	15
Texas	2021	8	0	0	0	0	8
	2022	8	0	0	0	3	5
	2023	5	0	0	0	0	5
Total	2021	25	0	0	0	0	25
	2022	25	0	0	0	3	22
	2023	22	1	0	0	0	23

* The numbers for 2020 are as of December 31. The numbers for 2022 and 2023 are as of October 2, 2022, and October 1, 2023, respectively, the respective fiscal year ends. States not listed had no activity to report.

**Table No. 5
Projected Openings as of October 1, 2023**

	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchised Outlets in the next Fiscal Year	Projected New Company-Owned Outlets in the next Fiscal Year
Colorado	0	0	1
Georgia	0	1	0
Iowa	0	1	0
Kansas	0	2	0
Massachusetts	0	1	0
Texas	0	2	0
Total	0	7	1

Exhibit G lists the name of all franchisees operating a Modern Market Eatery Restaurant as of the issuance date of this disclosure document, along with each franchised Modern Market Eatery Restaurant's address and telephone number. We have nothing to report regarding franchisees who had an outlet terminated, transferred cancelled, not renewed, cease to operate or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement during the most recently completed fiscal year, or who have not communicated with us within 10 weeks of the issuance date of this disclosure document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

We do not have any franchisees who during the last three fiscal years have signed confidentiality clauses.

There are no trademark-specific franchisee organization associated with the franchise system offered in this Franchise Disclosure Document and no independent franchisee organization has asked to be included in this Franchise Disclosure Document.

ITEM 21 FINANCIAL STATEMENTS

Exhibit D contains our unaudited financial statements for the period ended April 14, 2024, and our audited financial statements for our 2023 fiscal year ended October 1, 2023, our 2022 fiscal year for the period from January 1, 2022, through October 2, 2022, and our 2021 fiscal year ended December 31, 2021.

ITEM 22 CONTRACTS

Attached as Exhibits to this disclosure document are the following contracts:

Exhibit A	Area Development Agreement
Exhibit B	Franchise Agreement
Exhibit H	General Release

ITEM 23 RECEIPTS

Two copies of an acknowledgement of your receipt of this Disclosure Document appear at the last two pages of this Disclosure Document. Please date, sign and return one copy to us and keep the other with this Disclosure Document for your records.

EXHIBIT A
AREA DEVELOPMENT AGREEMENT

**MODERN MARKET EATERY AREA DEVELOPMENT
AGREEMENT TABLE OF CONTENTS**

<u>Section</u>	<u>Page</u>
1. GRANT OF DEVELOPMENT RIGHTS	1
1.1 Development Rights	1
1.2 Limited Exclusivity	2
1.3 Reservation of Rights	2
1.4 No Subfranchising Rights.....	3
2. FEES	3
2.1 Area Development Fee	3
2.2 Franchise Fees	3
3. DEVELOPMENT SCHEDULE	3
3.1 Development Schedule.....	3
3.2 Site Selection.....	3
4. YOUR ORGANIZATION AND MANAGEMENT.....	4
4.1 Your Organization.....	4
4.2 Ownership Interests and Control Group.....	5
4.3 Governing Documents.....	5
4.4 Guarantee of Performance.....	5
4.5 Development Principal	6
5. COVENANTS	6
5.1 Confidentiality.....	6
5.2 Restrictions On Competition.....	6
5.3 Exception for Publicly Traded Stock.....	7
5.4 Owners and Employees	7
5.5 Enforcement.....	7
6. TRANSFER.....	8
6.1 By Us.....	8
6.2 By You	8
7. TERM AND TERMINATION	8
7.1 Term	8
7.2 Termination without Notice	8
7.3 Termination without Cure Period.....	8
7.4 Termination Following Expiration of Cure Period.....	9

7.5	Effect of Expiration or Termination	10
7.6	Other Remedies Upon Default	10
7.7	Statutory Limitations	11
7.8	No Waiver	11
8.	INDEPENDENT CONTRACTOR AND INDEMNIFICATION.....	11
8.1	Independent Contractor	11
8.2	Indemnification.....	11
9.	APPROVALS AND WAIVERS.....	13
9.1	Approvals	13
9.2	No Warranty	13
9.3	No Implied Waiver	13
10.	FORCE MAJEURE	13
11.	NOTICES.....	13
12.	ENTIRE AGREEMENT.....	14
13.	DISPUTES.....	14
13.1	Choice of Law	14
13.2	Choice of Forum.....	14
13.3	Limitations of Actions	14
13.4	Reimbursement of Costs and Expenses.....	14
13.5	Rights of Parties are Cumulative	15
13.6	WAIVER OF JURY TRIAL	15
13.7	WAIVER OF PUNITIVE DAMAGES AND CLASS ACTION LAWSUITS.....	15
13.8	Injunctive Relief.....	15
14.	SEVERABILITY AND CONSTRUCTION.....	15
14.1	Severability.....	15
14.2	Counterparts	15
14.3	Gender and Number	15
14.4	Captions.....	15
14.5	Time.....	15
14.6	Survival of Obligations.....	16
14.7	No Implied Third Party Beneficiaries	16
14.8	Lesser Included Obligations	16
14.9	Best Interests of System	16
15.	REPRESENTATIONS AND ACKNOWLEDGMENTS	16

15.1	Legal and Business Rights and Risks	16
15.2	No Representation of your Success	16
15.3	Our Agreements with Third Parties.....	16
15.4	System Modifications.....	16
15.5	Franchise Application.....	17
15.6	Signatories to this Agreement	17
15.7	No Actual or Apparent Authority.....	17

EXHIBITS

A – Development Information

B – Ownership Information

C – Guarantee and Assumption of Developer’s Obligations

D – Form of Non-Disclosure and Non-Competition Agreement

**MODERN MARKET EATERY
AREA DEVELOPMENT AGREEMENT**

Developer: _____

Development Area: _____

MODERN MARKET EATERY AREA DEVELOPMENT AGREEMENT

This AREA DEVELOPMENT AGREEMENT is entered into by and between Modern Market Franchising, LLC, a Delaware limited liability company (“*we*,” “*us*,” “*our*,” or “*Franchisor*”) and the person(s) or entity identified on Exhibit A to this Agreement (“*you*,” “*your*” or “*Developer*”) as of the Effective Date (which is the date indicated on the signature page of this Agreement).

BACKGROUND

A. We and our affiliates have developed a system (the “*System*”) relating to the establishment and operation of premium fast casual restaurants under the name “Modern Market Eatery” and related trademarks with a menu consisting of freshly prepared sandwiches, salads, plated dishes, soups, pizzas and beverages.

B. The distinguishing characteristics of the System include specialty dishes, beverages (including beer and wine at some locations), and other food items that are prepared in accordance with secret recipes and manufacturing processes owned by us and our affiliates; distinctive exterior and interior restaurant design, décor, color scheme, fixtures, and furnishings; standards and specifications for ingredients, food preparation, equipment, supplies, and restaurant operations; copyrights and copyrighted materials, branded products and merchandise, and advertising and promotional programs; all of which we may change, improve, and further develop from time to time.

C. We and our affiliates identify the System and the restaurants operating under it by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin, including the mark “Modern Market Eatery” and such other trade names, service marks, and trademarks as we may in the future designate for use in connection with the System (the “*Proprietary Marks*”).

D. You desire to be granted the opportunity, and we desire to grant to you the right, to develop a specified number of franchised Modern Market Eatery Restaurants (collectively, the “*Restaurants*” and individually, a “*Restaurant*”) within a specified geographic area.

In recognition of all of the details noted above, the parties have decided to enter into this Agreement, taking into account all of the promises and commitments that they are each making to one another in this Agreement, and they agree as follows:

1. GRANT OF DEVELOPMENT RIGHTS

1.1 Development Rights.

1.1.1 We hereby grant to you (and/or any of your approved Controlled Affiliates as defined below), subject to the terms and conditions set forth in this Agreement, the right to develop Restaurants at specific locations to be designated in separate Modern Market Eatery Franchise Agreements (each a “*Franchise Agreement*”) pursuant to the schedule set forth in Exhibit A to this Agreement (the “*Development Schedule*”). You must sign the first Franchise Agreement when you sign this Agreement. Each Restaurant developed pursuant to this Agreement shall be located within the area designated on Exhibit A (the “*Development Area*”).

1.1.2 This Agreement is not a Franchise Agreement. It does not give you the right to operate Modern Market Eatery Restaurants or use the System or the Proprietary Marks.

1.1.3 A “**Controlled Affiliate**” means any corporation, limited liability company or other entity of which you or one or more of your owners owns more than fifty percent (50%) of the total authorized ownership interests, as long as you or such owner(s) have the right to control the entity’s management and policies. Controlled Affiliate and its ownership must be approved by us prior to grant of franchise rights.

1.2 Limited Exclusivity. During the Term, we and our affiliates will not operate, or license others to operate, any new Modern Market Eatery Restaurants in the Development Area, provided that you are in compliance with the terms of this Agreement and any other agreements with us and our affiliates and you are current on all obligations due to us and our affiliates. This Section 1.2 does not prohibit us and our affiliates, from: (1) operating, and licensing others to operate, Modern Market Eatery Restaurants in the Development Area that are open and operating or under development as of the Effective Date; (2) during the Term, operating, and licensing others to operate, Modern Market Eatery Restaurants at any location outside the Development Area; or (3) after this Agreement terminates or expires, operating, and licensing others to operate, Modern Market Eatery Restaurants at any location. You acknowledge that the development rights granted under this Agreement are non-exclusive and that, except as expressly provided in this Section 1.2, you have no exclusive territorial rights, protected territory or other right to exclude, control or impose conditions on the location or development of Modern Market Eatery Restaurants under the Proprietary Marks, on any sales or distribution of products under the Proprietary Marks, or on our (and our affiliates’) business activities.

1.3 Reservation of Rights. We reserve all rights to use and license the System and the Proprietary Marks other than those expressly granted under this Agreement. Nothing in this Agreement prohibits us or our affiliates from, among other things:

1.3.1 operating or licensing others to operate at any location, during or after the Term, any type of restaurant other than a Modern Market Eatery restaurant;

1.3.2 selling anywhere (within or outside the Development Area) the same or similar products that are authorized for sale at Modern Market Eatery Restaurants under the Proprietary Marks or under other trademarks or trade dress and through any other channel of distribution, whether such channel of distribution is now in existence or is hereafter developed and whether at retail or wholesale including, without limitation, sales through catalogs, e-commerce, mail order, carts or kiosks, mass merchandise, supermarkets, restaurants, institutional guests, virtual kitchens, club stores and any other outlet or method of distribution, pursuant to any terms and conditions as we may deem appropriate;

1.3.3 developing and owning other franchise systems for the same or similar products and services using trade names and trademarks other than the Proprietary Marks;

1.3.4 purchasing, being purchased by, merging or combining with, businesses that directly compete with Modern Market Eatery Restaurants; and

1.3.5 Operating or licensing others to operate Modern Market Eatery Restaurants at any Non-Traditional Facility (as defined below) inside or outside the Development Area. The term “**Non-Traditional Facility**” includes, among other things, college campuses, schools, hotels, resorts, hospitals, casinos, airports, gas stations, convenience stores and other travel related facilities; federal, state, or local government facilities (including military bases); theme and amusement parks; recreational facilities; venues in which foodservice is or may be provided by a master concessionaire or contract foodservice provider; seasonal facilities; shopping malls; theaters; and sporting event arenas and centers.

1.4 No Subfranchising Rights. This Agreement does not give you any right to franchise or subfranchise others to operate Modern Market Eatery Restaurants.

2. FEES

2.1 Area Development Fee. When you sign this Agreement, you must pay us the development fees for each Restaurant that you agree to develop under this Agreement in the amounts identified on Exhibit A (the “*Area Development Fee*”). The Area Development Fee is fully earned by us when this Agreement is signed and are non-refundable even if you fail to develop any Restaurants.

2.2 Franchise Fees. You will pay the then-current franchise fee under the Franchise Agreement for each Restaurant that you develop under this Agreement; provided that we will apply the portion of the Area Development Fee paid for each Restaurant against that franchise fee. You and your Controlled Affiliates must pay the franchise fee payable under each Franchise Agreement when you or they sign the applicable Franchise Agreement.

3. DEVELOPMENT SCHEDULE

3.1 Development Schedule.

3.1.1 To maintain your rights under this Agreement, you (and/or your Controlled Affiliates) must: (1) obtain our approval of a site and sign a Franchise Agreement for each of the agreed-upon number of Restaurants by the dates specified in the Development Schedule; and (2) have open and operating within the Development Area the agreed-upon number of Restaurants by the dates specified in the Development Schedule. You (or a Controlled Affiliate) will operate each Restaurant under a separate Franchise Agreement with us, on our then current form of Franchise Agreement which will require cross guarantees between all Franchise Agreements. To retain your rights under this Agreement, you must operate each Restaurant that you open pursuant to this Agreement continuously throughout this Agreement’s term in full compliance with the applicable Franchise Agreement.

3.1.2 Before executing any binding letter of intent, lease, purchase agreement or other document by which you would commit to occupy or acquire a location for any Restaurant that you will develop under this Agreement, you must obtain our acceptance of the site for the Restaurant in accordance with the site selection procedures set forth in Section 3.2, execute and deliver to us copies of our then- current standard form of Franchise Agreement with respect to such Restaurant, pay the franchise fee to us in accordance with the terms of such Franchise Agreement and we must countersign such Franchise Agreement.

3.2 Site Selection.

3.2.1 We will provide you with our site selection criteria and, as you may request, a reasonable amount of consultation with respect to the site selection process. We may change our site selection criteria, which may include population density and composition, leasing costs, parking, visibility, character of the neighborhood, competition from other restaurants in the area, proximity to other businesses (including businesses operated or franchised by us or our affiliates), the nature of other businesses in proximity to the site and other commercial characteristics, and the size, appearance, other physical characteristics and a site plan of the premises. At our option, you must engage our designated or approved supplier of real estate services to assist you in the site selection and/or lease negotiation process. You must provide a site review kit to us for each Restaurant including a complete site report and other materials and information we request for a suitable site located within the Development Area.

3.2.2 Within thirty (30) days after we receive your detailed site review kit, we or our designee will conduct an evaluation of the proposed site(s) and accept or reject your proposed sites. At our option, we may conduct an on-site evaluation of the proposed site(s). We do not charge any fees to conduct one market visit, however; if we require, or if you request, any additional market visits, we reserve the right to charge you a site review fee in the amount of Five Hundred Dollars (\$500) and reimburse us for our travel expenses associated with such visits. We will not unreasonably withhold our acceptance of a site that meets our site selection criteria. In determining whether to accept or reject a proposed site, we also may consider the site's proximity both to the Development Area's boundaries and to other existing or potential sites for Modern Market Eatery Restaurants located outside the Development Area. If we do not accept a proposed site in writing in this time period, we will be deemed to have rejected the site.

3.2.3 You agree that our acceptance of a site for a Restaurant and any information communicated to you regarding our site selection criteria for Modern Market Eatery Restaurants does not constitute a warranty or representation of any kind, express or implied, as to the suitability of any site for the Restaurant or for any other purpose. Our acceptance of a site is not a representation or a promise by us that the Restaurant at the site will achieve certain revenues or a certain level of profitability. Similarly, our acceptance of one or more sites and our rejection of other sites is not a representation or a promise that the accepted site will have higher revenues or be more profitable than a site that we rejected.

3.2.4 You agree that your decision to develop and operate a Restaurant at a site that we accept is based solely on your own independent investigation of the suitability of that site for a Restaurant. We assume no liability or responsibility for: (1) evaluation of the soil of the site for hazardous substances; (2) inspection of any structure at the site for asbestos or other toxic or hazardous materials; (3) compliance with the Americans with Disabilities Act ("*ADA*"); or (4) compliance with any other applicable law. It is your sole responsibility to obtain satisfactory evidence and/or assurances that the site and any structures on the site are free from environmental contamination and in compliance with the requirements of the ADA.

4. YOUR ORGANIZATION AND MANAGEMENT

4.1 Your Organization.

4.1.1 If you are a legal entity, you make the following representations and warranties: (1) you are duly organized and validly existing under the laws of the state of your formation; (2) you are qualified to do business in the state or states in which the Development Area is located; (3) execution of this Agreement and the development and operation of the Restaurants is permitted by your governing documents; and (4) unless waived in writing by us, your articles of incorporation, articles of organization or written partnership agreement shall at all times provide that your activities are limited exclusively to the development and operation of Modern Market Eatery Restaurants.

4.1.2 If you are an individual, or a partnership comprised solely of individuals, you make the following additional representations and warranties: (1) each individual has executed this Agreement; (2) each individual shall be jointly and severally bound by, and personally liable for the timely and complete performance and a breach of, each and every provision of this Agreement; and (3) notwithstanding any transfer to a business entity, each individual shall continue to be jointly and severally bound by, and personally liable for the timely and complete performance and breach of, each and every provision of this Agreement.

4.2 Ownership Interests and Control Group. If you are a business entity, all interests in you are owned as set forth in attached Exhibit B. You must comply with Section 6 prior to any change in ownership interests and must provide an updated Exhibit B as changes occur in order to ensure the information contained in Exhibit B is true, accurate and complete at all times. Exhibit B also lists those persons who comprise your “**Control Group**.” The parties acknowledge and agree that it is their intent that the members of the Control Group include the Development Principal and: (1) all holders of a legal or beneficial interest of ten percent (10%) or more (“**10% Owners**”) in your entity; (2) if you are a limited partnership, all 10% Owners of your general partner; and (3) all 10% Owners of a corporation or limited liability company that owns a controlling interest in your entity. In the event of any change in the Control Group or in the ownership interests of any member of the Control Group, you must sign addenda to Exhibit B to reflect the change. If you are a corporation, the Control Group shall at all times own at least fifty-one percent (51%) of your voting securities; if you are a limited liability company, the Control Group shall at all times own at least fifty-one percent (51%) of your membership interests; and if you are any other type of business entity, the Control Group shall at all times have at least a fifty-one percent (51%) interest in your operating profits and losses and hold at least fifty-one percent (51%) of your ownership interests.

4.3 Governing Documents. Upon request by us, you shall promptly deliver to us, as applicable, true and complete copies of the articles or certificate of incorporation, partnership agreement, bylaws, subscription agreements, buy-sell agreements, voting trust agreements and all other documents relating to your ownership, organization, capitalization, management and control and all amendments thereto. When any of these governing documents are modified or changed, you promptly shall provide copies to us. If you are a corporation, you shall maintain stop-transfer instructions against the transfer on the records of any voting securities, and each stock certificate of the corporation shall have conspicuously endorsed upon its face the following statement: “Any assignment or transfer of this stock is subject to the restrictions imposed on assignment by the Modern Market Eatery Area Development Agreement and Franchise Agreement(s) to which the corporation is a party.” If you are a publicly held corporation, these requirements shall apply only to the stock owned by your Control Group. If you are a limited liability company, each membership or management certificate shall have conspicuously endorsed upon its face the following statement: “Any assignment or transfer of an interest in this limited liability company is subject to the restrictions imposed on assignment by the Modern Market Eatery Restaurant Area Development Agreement and Franchise Agreement(s) to which the limited liability company is a party.” If you are a partnership, your written partnership agreement shall provide that ownership of an interest in the partnership is held, and that further assignment or transfer thereof, is subject to all restrictions imposed on assignment by this Agreement.

4.4 Guarantee of Performance.

4.4.1 All members of the Control Group and your 10% Owners shall jointly and severally personally guarantee your payment and performance under this Agreement and personally bind themselves to the terms of this Agreement pursuant to the Guarantee, Indemnification and Acknowledgement (“**Guarantee**”) attached as Exhibit C. Unless you are a publicly-held entity, all of your officers, directors, limited liability company managers, if applicable, also shall jointly and severally guarantee your payment and performance under this Agreement and bind themselves to the terms of this Agreement pursuant to the Guarantee. We reserve the right to require any guarantor to provide personal financial statements to us from time to time.

4.4.2 With respect to your owners, you acknowledge that, unless otherwise agreed to in writing by us, it is our intent to have individuals (and not corporations, limited liability companies or other entities) sign the Guarantee. Accordingly, if any owner is not an individual, we shall have the right to require individuals who have only an indirect ownership interest in you to sign the Guarantee.

4.5 Development Principal. You must designate one of your owners as your Development Principal who will be the person with whom we communicate and whom will have the authority to bind you with respect to all financial, operational and legal matters related to the development of the Restaurants and this Agreement. The Development Principal must be approved by us. The Development Principal shall successfully complete our development training program (if any) and any additional training that we require. You must designate a replacement approved by us within thirty (30) days after your Development Principal ceases to qualify as the Development Principal. When you sign a franchise agreement, your operating principal can be the same owners as your Development Principal.

5. COVENANTS

5.1 Confidentiality.

5.1.1 You acknowledge and agree that: (1) we own all right, title and interest in and to the System; (2) the System includes trade secrets and confidential and proprietary information and know-how that gives us a competitive advantage; (3) we have taken all measures appropriate to protect the trade secrets and the confidentiality of the proprietary information and know-how of the System; (4) all material or other information now or hereafter provided or disclosed to you regarding the System is disclosed in confidence; (5) you have no right to disclose any part of the System to anyone who is not your employee; (6) you will disclose to your employees only those parts of the System that an employee needs to know; (7) you will have a system in place to ensure that your employees keep confidential our trade secrets and confidential and proprietary information, and, if requested by us, you shall obtain from those of your employees designated by us an executed confidentiality and non-disclosure agreement in the form prescribed by us; (8) by entering into this Agreement, you do not acquire any ownership interest in the System; and (9) your use or duplication of the System or any part of the System in any other business, or disclosure of any part of the System to others for use or duplication in any other business, would constitute an unfair method of competition, for which we would be entitled to all legal and equitable remedies, including injunctive relief, without posting a bond.

5.1.2 You shall not, during the term of this Agreement or at any time thereafter, communicate or disclose any trade secrets or confidential or proprietary information or know-how of the System to any unauthorized person, or do or perform, directly or indirectly, any other acts injurious or prejudicial to any of the Proprietary Marks or the System. Any and all information, knowledge, know-how and techniques, including all drawings, materials, equipment, specifications, recipes, techniques and other data that we or our affiliates designate as confidential shall be deemed confidential for purposes of this Agreement.

5.2 Restrictions On Competition.

5.2.1 You acknowledge and agree that: (1) pursuant to this Agreement, you will have access to valuable trade secrets, specialized training and other confidential information from us and/or our affiliates regarding the development, operation, product preparation and sale, market and operations research, advertising and marketing plans and strategies, purchasing, sales and marketing methods and techniques owned by us and our affiliates; (2) the know-how regarding the System and the opportunities, associations and experience acquired by you pursuant to this Agreement are of substantial value; (3) in developing the System, we and our affiliates have made substantial investments of time, effort, and money; (4) we would be unable adequately to protect the System and its trade secrets and confidential and proprietary information against unauthorized use or disclosure and would be unable adequately to encourage a free exchange of ideas and information among developers and operators of Modern Market Eatery Restaurants if developers and franchisees were permitted to engage in the activities described in this Section 5.2 or to hold interests in the businesses described in this Section 5.2; and (5) the restrictions

on your right to hold interests in, or perform services for, the businesses described in this Section 5.2 will not unduly limit your activities.

5.2.2 You covenant and agree that, except as we otherwise approve in writing, during the term of this Agreement, and for a continuous period of two (2) years following the expiration, transfer or termination of this Agreement, you will not, either directly or indirectly, for yourself or through, on behalf of, or in conjunction with any person or legal entity:

5.2.2.1 Own, maintain, operate, engage in, grant a franchise to, advise, help, make loans to, lease property to, or have any interest in, either directly or indirectly, any “**Competing Business**”, which is defined as a restaurant business: (1) that has freshly prepared menu items as a primary menu item (i.e., sales that comprise at least twenty percent (20%) of the business’s sales) or that offers any individual menu item that comprises at least twenty percent (20%) of sales at Modern Market Eatery Restaurants; or (2) whose method of operation or trade dress is similar to that employed in the System. During the term of this Agreement, there is no geographical limitation on this restriction. Following the expiration, transfer or termination of this Agreement, this restriction shall apply to any Competing Business located within the Development Area, within three (3) miles of the border of the Development Area, or within a three (3) mile radius of any then-existing Modern Market Eatery restaurant; or

5.2.2.2 Divert or attempt to divert any present or prospective business or guest to any Competing Business by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Proprietary Marks and the System.

5.3 Exception for Publicly Traded Stock. The restrictions contained in Section 5.2.2.1 will not apply to ownership by you of less than a five percent (5%) beneficial interest in the equity securities of any publicly-held corporation.

5.4 Owners and Employees. Your owner(s) identified in Exhibit B and any other individuals that sign the Guarantee attached to this Agreement as Exhibit C will agree to be bound personally by the provisions of this Section 5, provided that, as to them, the time period in Section 5.2.2 will run from the expiration, termination, or transfer of this Agreement or from the termination of the individual’s relationship with you, whichever occurs first. At our request, you must obtain signed agreements similar in substance to this Section 5 (including agreements applicable upon termination of a person’s relationship with you) from your officers, directors, and owners. Each agreement required by this Section 5.4 must be in a form we approve and specifically identify us as a third party beneficiary with the independent right to enforce the agreement. Our current form of Non-disclosure and Non-competition Agreement is attached to this Agreement as Exhibit D.

5.5 Enforcement.

5.5.1 We have the right, in our sole discretion, to reduce the scope of any restriction in Section 5.2 by giving you written notice and you agree to comply with any covenant so modified, which shall be fully enforceable notwithstanding the provisions of Section 12.

5.5.2 You agree that the existence of any claims you may have against us, whether or not arising from this Agreement, will not constitute a defense to our enforcement of this Section 5.

5.5.3 You acknowledge that your violation of the terms of this Section 5 would result in irreparable injury to us for which no adequate remedy at law may be available, and you accordingly consent to the issuance of an injunction prohibiting any conduct by you in violation of the terms of this Section 5. Injunctive relief will be in addition to any other remedies we may have.

5.5.4 If you or any other person bound by this Section 5 fails or refuses to abide by any of the foregoing restrictions on competition, and we obtain enforcement in a judicial proceeding, the obligations under the breached restriction will continue in effect for a period ending two (2) years after the date the person begins to comply with the order enforcing the restriction.

6. TRANSFER

6.1 By Us. We have the right to transfer or assign this Agreement or any part of our rights or obligations under this Agreement to any person or legal entity. You agree that we will have no liability after the effective date of the transfer or assignment for the performance of any obligations under this Agreement. You acknowledge that we can sell our assets; sell securities in a public offering or in a private placement; merge with, acquire, or be acquired by another company; or undertake a refinancing, recapitalization, leveraged buy-out, or other economic or financial restructuring, without restriction and without affecting your obligations under this Agreement.

6.2 By You. Other than to an affiliate controlled by or under common control with you (an “*Affiliate*”), you shall not transfer, pledge or otherwise encumber: (a) this Agreement; (b) your rights and obligations under this Agreement; or (c) any material asset of yours utilized in the operation in the Development Area.

7. TERM AND TERMINATION

7.1 Term. The term of this Agreement begins on the Effective Date (“*Term*”) and expires on the earlier of the date that you open the final Restaurant to be developed under this Agreement or the opening deadline for that Restaurant as set forth in the Development Schedule.

7.2 Termination without Notice. You will be deemed to be in default under this Agreement, and all rights granted to you in this Agreement will automatically terminate without notice to you, if you become insolvent or make a general assignment for the benefit of creditors; if a petition in bankruptcy is filed by you or is filed against you and not opposed by you; if you are adjudicated as bankrupt or insolvent; if a bill in equity or other proceeding for the appointment of a receiver or other custodian for your business or assets is filed and consented to by you; if a receiver or other custodian (permanent or temporary) of your assets or property, or any part thereof, is appointed by any court of competent jurisdiction; if proceedings for a composition with creditors under any state or federal law are instituted by or against you; if a final judgment against you remains unsatisfied or of record for thirty (30) days or longer (unless supersedeas bond is filed); or if you are dissolved.

7.3 Termination without Cure Period. If any of the following events of default occurs, we may terminate this Agreement without providing you any opportunity to cure the default, effective immediately upon receipt of written notice by you:

7.3.1 You fail to satisfy your development obligations under the Development Schedule.

7.3.2 Your Development Principal fails to satisfactorily complete our management training program.

7.3.3 You, your owners, your employees or your independent contractors do business with third parties in violation of The Patriot Act and/or the Foreign Corrupt Practices Act.

7.3.4 There is a material breach by you of any covenant or obligation under Section 5.

7.3.5 Any transfer that requires our prior written consent occurs without your having obtained that prior written consent.

7.3.6 We discover that you made a material misrepresentation in or omitted a material fact from the information that you provided to us in connection with our decision to enter into this Agreement.

7.3.7 You knowingly falsify any report required to be furnished to us, make any material misrepresentation in your dealings with us, or fail to disclose any material facts to us.

7.3.8 You, your Development Principal, or any of your 10% Owners are convicted of, or plead no contest to, a felony charge, a crime involving moral turpitude, or any other crime or offense that is reasonably likely, in our sole opinion, to adversely affect us, our affiliates or the System.

7.3.9 You fail to pay when due any amount owed to us or our affiliates, any lender that has provided financing under an arrangement with us, any creditor or supplier of a Restaurant or any taxing authority for federal, state or local taxes (other than amounts subject to a bona fide dispute through appropriate proceedings), and you do not correct such failure within five (5) days after written notice is delivered to you.

7.3.10 You, your Development Principal or any of your 10% Owners: (1) materially misuse or make unauthorized use of the Proprietary Marks or our copyrighted materials; (2) commit any act or take any action that impairs the goodwill of the Proprietary Marks; (3) use our copyrighted materials or other proprietary System know-how at any business owned or operated by you or your 10% Owners other than a Restaurant; or (4) fail to cure any breach or default under this Agreement that materially impairs or can be expected to impair the goodwill associated with the Proprietary Marks.

7.3.11 You, your Controlled Affiliates, your Development Principal, any member of the Control Group, or any 10% Owner: remain in default beyond the applicable cure period under any other agreement with us or our affiliates (provided that, if the default is not by you, we shall provide to you written notice of the default and a fifteen (15) day period to cure the default).

7.3.12 We terminate any Franchise Agreement between us and you (or your Controlled Affiliates) for a Restaurant, regardless of where it is located, in compliance with its terms.

7.4 Termination Following Expiration of Cure Period.

7.4.1 Except as otherwise provided above in Sections 7.2 and 7.3 above, if you fail to maintain or observe any of the standards or procedures prescribed by us in this Agreement or otherwise in writing, we may only terminate this Agreement by giving you written notice of termination (in the manner set forth under Section 11 below) stating the nature of the default at least thirty (30) days before the effective date of termination; provided, however, that you may avoid termination by immediately initiating a remedy to cure such default, curing it to our satisfaction, and by promptly providing proof of the cure to us, all within the thirty (30) day period. If any such default is not cured within the specified time, then this Agreement shall terminate without further notice to you effective immediately upon the expiration of the thirty (30) day period.

7.4.2 Notwithstanding the provisions of the preceding Section 7.4.1, if you default in the payment of any monies owed to us when such monies become due and payable and you fail to pay such monies within five (5) days after receiving written notice of default, then this Agreement shall terminate without further notice to you effective immediately upon the expiration of the five (5) day period.

7.5 Effect of Expiration or Termination. Upon expiration or termination of this Agreement (regardless of the reason for termination):

7.5.1 Any and all rights granted to you under this Agreement will immediately terminate; however, you will not be relieved of any of your obligations, debts or liabilities under this Agreement, including, without limitation, any debts, obligations or liabilities which have accrued before such termination.

7.5.2 You and your Controlled Affiliates will have no further rights to develop and open Restaurants in the Development Area, except that you (and your Controlled Affiliates) may develop and open any Restaurants for which you (or your Controlled Affiliates) have executed Franchise Agreements prior to the date of expiration or termination of this Agreement and continue to operate Restaurants that are open and operating as of the date this Agreement expires or terminates.

7.5.3 We and our affiliates will have the right to operate, and authorize others to operate, Modern Market Eatery Restaurants the physical premises of which are located within the Development Area and continue to engage, and grant to others the right to engage, in any activities that we (and they) desire within the Development Area without any restrictions whatsoever, subject only to your (and/or your Controlled Affiliates') rights under existing Franchise Agreements.

7.5.4 We will retain the Area Development Fee payable pursuant to Section 2.1 of this Agreement.

7.6 Other Remedies Upon Default.

7.6.1 In addition to and without limiting our other rights and remedies under this Agreement, upon the occurrence of any of the events that give rise to our right to terminate this Agreement, we may, at our sole option and upon delivery of written notice to you, elect to take any or all of the following actions without terminating this Agreement:

7.6.1.1 temporarily suspend your rights to develop additional Restaurants in any part of the Development Area;

7.6.1.2 temporarily or permanently reduce the size of the Development Area, in which event the restrictions on us and our affiliates under Section 1.3 will not apply in the territory which is no longer part of the Development Area and we and our affiliates may engage, and authorize third parties to engage, in any business activities we or they deem appropriate, whether under the Proprietary Marks or other trademarks, within that territory, including establishing and operating (and granting rights to others to establish and operate) Modern Market Eatery Restaurants the physical premises of which are located in that territory; and/or

7.6.1.3 extend the time of the Development Schedule for any period of time that we determine.

7.6.2 Our exercise of our rights under this Section 7.6 will not be a defense for you to our enforcement of any other provision of this Agreement or waive or release you from any of your other obligations under this Agreement. Our exercise of these rights will not constitute an actual or constructive termination of this Agreement, nor will it be our sole or exclusive remedy for your default. If we exercise any of our rights under this Section 7.6, we may thereafter terminate this Agreement without providing you any additional corrective or cure period, unless the default giving rise to our right to terminate this Agreement has been cured to our reasonable satisfaction.

7.7 Statutory Limitations. If any valid, applicable law or regulation of a competent governmental authority with jurisdiction over this Agreement requires a notice or cure period prior to termination longer than set forth in this Section 7, this Agreement will be deemed amended to conform to the minimum notice or cure period required by the applicable law or regulation.

7.8 No Waiver. Termination of this Agreement by us shall not constitute an election of remedies by us. The exercise of the rights granted under this Section 7 are in addition to, and not in lieu of, any and all other rights and remedies available to us at law, in equity or otherwise, including without limitation, the right to an injunction as set forth in Section 5.5.3, all of which are cumulative.

8. INDEPENDENT CONTRACTOR AND INDEMNIFICATION

8.1 Independent Contractor. This Agreement does not create a fiduciary relationship between you and us. You are an independent contractor, and nothing in this Agreement is intended to make either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose whatsoever. While this Agreement is in effect, you must hold yourself out to the public as an independent contractor developing the Restaurants pursuant to an area development agreement from us. This Agreement does not authorize you to make any contract, agreement, warranty, or representation on our behalf or to incur any debt or other obligation in our name. We will not be deemed liable as a result of any such action, nor will we be liable by reason of your act or omission in the development or operation of the Restaurants, or for any claim or judgment arising therefrom against you or us.

8.2 Indemnification.

8.2.1 You and your 10% Owners will defend, indemnify and hold harmless, us and our parent, affiliates, subsidiaries and their successors and assigns, and each of their respective direct and indirect owners, directors, officers, managers, employees, agents, attorneys, and representatives (collectively, "**Indemnified Parties**") from and against all Losses (as defined below) which any of the Indemnified Parties may suffer, sustain or incur as a result of a claim asserted or inquiry made formally or informally, or a legal action, investigation, or other proceeding brought by a third party and directly or indirectly arising out of your development and operation of the Restaurants, your conduct of business under this Agreement, your breach of this Agreement or your noncompliance or alleged noncompliance with any law, ordinance, rule or regulation including any allegation that we or another Indemnified Party is a joint employer or otherwise responsible for your acts or omissions relating to your employees. We will promptly notify you of any claim that may give rise to a claim of indemnity hereunder, provided, however, that the failure to provide such notice will not release you from your indemnification obligations under this section except to the extent you are actually and materially prejudiced by such failure.

8.2.2 You will have the right, upon written notice delivered to the Indemnified Party within fifteen (15) days thereafter assuming full responsibility for Losses resulting from such claim, to assume and control the defense of such claim, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of the fees and disbursements of such counsel. If (1) the Indemnified Party will have been advised by counsel that there are one or more legal or equitable

defenses available to it that are different from or in addition to those available to you and, in the reasonable opinion of the Indemnified Party, your counsel could not adequately represent the interests of the Indemnified Party because such interests could be in conflict with your interests, or (2) you do not assume responsibility for such Losses in a timely manner or you fail to defend a claim with counsel reasonably satisfactory to the Indemnified Party as contemplated above, then the Indemnified Party will have the right to employ counsel of its own choosing, and you will pay the fees and disbursements of such Indemnified Party's counsel as incurred. In connection with any claim, the Indemnified Party or you, whichever is not assuming the defense of such claim, will have the right to participate in such claim and to retain its own counsel at such party's own expense.

8.2.3 You or the Indemnified Party (as the case may be) will keep you or the Indemnified Party (as the case may be) reasonably apprised of, and will respond to any reasonable requests concerning, the status of the defense of any claim and will cooperate in good faith with each other with respect to the defense of any such claim. You will not, without the prior written consent of the Indemnified Party, (1) settle or compromise any claim or consent to the entry of any judgment with respect to any claim which does not include a written release from liability of such claim for the Indemnified Party and its affiliates, direct and indirect owners, directors, managers, employees, agents and representatives, or (2) settle or compromise any claim in any manner that may adversely affect the Indemnified Party other than as a result of money damages or other monetary payments which will be paid by you. No claim that is being defended in good faith by you in accordance with the terms of this section will be settled by the Indemnified Party without your prior written consent. Notwithstanding anything to the contrary herein, if a claim involves the Proprietary Marks, you agree that we will have the exclusive right to assume the defense of such claim, at your expense with counsel selected by us, but reasonably satisfactory to you.

8.2.4 You have no obligation to indemnify or hold harmless an Indemnified Party for any Losses to the extent they are determined in a final, unappealable ruling issued by a court or arbitrator with competent jurisdiction to have been caused solely and directly by the Indemnified Party's gross negligence, willful misconduct, or willful wrongful omissions.

8.2.5 For purposes of this Section 8.2, "**Losses**" include all obligations, liabilities, damages (actual, consequential, or otherwise), and defense costs that any Indemnified Party incurs. Defense costs include accountants', arbitrators', attorneys', and expert witness fees, costs of investigation and proof of facts, court costs, travel and living expenses, and other expenses of litigation and alternative dispute resolution.

8.2.6 Your obligations in this Section 8.2 will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination. An Indemnified Party need not seek recovery from any insurer or other third party, or otherwise mitigate its Losses, in order to maintain and recover fully a claim against you under this Section 8.2. You agree that a failure to pursue a recovery or mitigate a Loss will not reduce or alter the amounts that an Indemnified Party may recover from you under this Section 8.2.

9. APPROVALS AND WAIVERS

9.1 Approvals. Whenever this Agreement requires our prior approval or consent, you must make a timely written request to us, and our approval or consent must be obtained in writing and signed by one of our officers.

9.2 No Warranty. We make no warranties or guarantees upon which you may rely and assume no liability or obligation to you by providing any waiver, approval, consent, or suggestion to you in connection with this Agreement, or by reason of any neglect, delay, or denial of any request therefor.

9.3 No Implied Waiver. No delay or failure by us to exercise any right reserved to us under this Agreement or to insist upon strict compliance by you with any obligation or condition hereunder, and no custom or practice of the parties at variance with the terms hereof, will constitute a waiver of our right to exercise such right or to demand exact compliance by you with any of the terms hereof. Waiver by us of any particular default by you will not affect or impair our rights with respect to any subsequent default of the same, similar, or a different nature. Acceptance by us of any payments due to us hereunder will not be deemed to be a waiver by us of any preceding breach by you.

10. FORCE MAJEURE

If the performance of any obligation by any party under this Agreement is prevented, hindered or delayed by reason of any natural disaster, strike, lock-out or other industrial disturbance, war (declared or undeclared), riot, epidemic, fire or other catastrophe, act of any government or other third party and any other cause not within the control of the party affected thereby ("*Force Majeure*") that cannot be overcome by reasonable commercial measures, the parties shall be relieved of their respective obligations (to the extent that the parties, having exercised best efforts, are prevented, hindered or delayed in such performance) during the period of such Force Majeure. The party whose performance is affected by an event of Force Majeure shall give prompt written notice of such Force Majeure event to the other party by setting forth the nature thereof and an estimate as to its duration. Your inability to obtain financing (regardless of the reason) shall not constitute Force Majeure.

11. NOTICES

Any and all notices that are required or permitted under this Agreement shall be in writing and shall be personally delivered, mailed in the United States mail, postage prepaid, certified mail, return receipt requested; or mailed via overnight courier, or by other means that affords the sender evidence of delivery, of rejected delivery, or attempted delivery to the respective parties at the addresses shown on the signature page of this Agreement (unless and until a different address has been designated by written notice to the other party). Any notices sent by personal delivery, next day delivery service or by electronic means shall be deemed given on the next business day after transmittal. Any notices sent by certified mail shall be deemed given on the third business day after the date of mailing. Any change in the foregoing addresses shall be effected by giving fifteen (15) days written notice of such change to the other party. We may provide you with routine information, invoices, updates to the System standards and other System requirements and programs, including any modifications thereto, by regular mail or by e-mail, or by making such information available to you on the Internet, an extranet, or other electronic means.

12. ENTIRE AGREEMENT

This Agreement and the attachments to this Agreement, constitute the entire, full and complete agreement between the parties concerning your rights, and supersede any and all prior or contemporaneous negotiations, discussions, understandings or agreements. There are no other representations, inducements, promises, agreements, arrangements, or undertakings, oral or written, between the parties relating to the matters covered by this Agreement other than those set forth in this Agreement and in the attachments. No obligations or duties that contradict or are inconsistent with the express terms of this Agreement may be implied into this Agreement. No amendment, change or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed in writing. Notwithstanding the foregoing, nothing in this Agreement is intended to disclaim any representation made in our Franchise Disclosure Document that we provided to you.

13. DISPUTES

13.1 Choice of Law. This Agreement and any claim or controversy arising out of, or relating to, rights and obligations of the parties under this Agreement and any other claim or controversy between the parties shall be governed by and construed in accordance with the laws of the State of Colorado without regard to conflicts of laws principles. Notwithstanding the foregoing, Sections 5.2, 5.4, and 5.5 of this Agreement will be interpreted, governed, and construed in accordance with the laws of the state in which the Development Area is located. Nothing in this Section 13.1 is intended, or shall be deemed, to make any Colorado law regulating the offer or sale of franchises or the franchise relationship applicable to this Agreement if such law would not otherwise be applicable. If any provision of this Agreement would not be enforceable under the laws of Colorado, you are located outside of Colorado, and such provision would be enforceable under the laws of the state in which you are located, then such provision shall be interpreted and construed under the laws of that state.

13.2 Choice of Forum. The parties agree that, to the extent any disputes cannot be resolved directly between them, you must file any suit against us only in the federal or state court in the judicial district in which the our principal place of business is located at the time suit is filed. We must file suit in the federal or state court located in the judicial district in which our principal place of business is located at the time suit is filed, in the jurisdiction where you reside or do business, where any Restaurant is or was located, or where the claim arose. The parties consent to the personal jurisdiction of such courts and waive any questions of personal jurisdiction or venue for the purpose of carrying out this provision.

13.3 Limitations of Actions. Except for payments owed by one party to the other, and unless prohibited by applicable law, any legal action or brought or instituted with respect to any dispute arising from or related to this Agreement or with respect to any breach of the terms of this Agreement proceeding (including the offer and sale of a franchise to you) must be brought or instituted within a period of two (2) years after the initial occurrence of any act or omission that is the basis of the legal action or proceeding, whenever discovered.

13.4 Reimbursement of Costs and Expenses. If either party brings an action against the other party in a judicial proceeding, the party prevailing in that proceeding shall be entitled to reimbursement of costs and expenses, including reasonable accountants', attorneys', attorneys' assistants' and expert witness fees, the cost of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether incurred prior to, during, in preparation for, or in contemplation of the filing of, the proceeding. If we utilize legal counsel (including in-house counsel employed by us) in connection with any failure by you to comply with this Agreement, you shall reimburse us for any of the above-listed costs and expenses incurred by us. In any judicial proceeding, the amount of these costs and expenses will be determined by the court and not by a jury.

13.5 Rights of Parties are Cumulative. The parties' rights under this Agreement are cumulative, and the exercise or enforcement of any right or remedy under this Agreement will not preclude the exercise or enforcement by a party of any other right or remedy under this Agreement that it is entitled by law or this Agreement to exercise or enforce.

13.6 WAIVER OF JURY TRIAL. THE PARTIES IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO BRING, OR BE A CLASS MEMBER IN, ANY CLASS ACTION SUITS AND THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, AND/OR COUNTERCLAIM BROUGHT BY EITHER PARTY.

13.7 WAIVER OF PUNITIVE DAMAGES AND CLASS ACTION LAWSUITS. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY WAIVES ANY RIGHT TO, OR CLAIM FOR, ANY CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER PARTY. THE PARTIES ALSO AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN THEM, THE PARTY MAKING A CLAIM WILL BE LIMITED TO RECOVERY OF ACTUAL DAMAGES, IF ANY.

13.8 Injunctive Relief. You acknowledge and agree that your failure to comply with the terms of this Agreement, including the failure to comply fully with all post-termination obligations, is likely to cause irreparable harm to us, our affiliates and the System. Therefore, you agree that, in the event of a breach or threatened breach of any of the terms of this Agreement by you, we shall be entitled to injunctive relief (both preliminary and permanent) restraining that breach and/or to specific performance to prevent the irreparable harm that you agree your failure to comply will cause without posting any bond or security. Any equitable remedies sought by us shall be in addition to, and not in lieu of, all remedies and rights that we otherwise may have arising under applicable law or by virtue of any breach of this Agreement.

14. SEVERABILITY AND CONSTRUCTION

14.1 Severability. If any provision of this Agreement is determined to be invalid or in conflict with any existing or future law or regulation by a court or agency having valid jurisdiction, the invalidity will not impair the operation of any other provisions which remain otherwise intelligible. The latter will continue to be given full force and effect, and the invalid provisions will be deemed not to be a part of this Agreement.

14.2 Counterparts. This Agreement may be signed in counterparts, signature pages may be exchanged by facsimile and any other electronic transmission (including PDF), and each such counterpart, when taken together with all other identical copies of this Agreement also signed in counterpart, shall be considered as one complete agreement.

14.3 Gender and Number. All references to gender and number shall be construed to include such other gender and number as the context may require.

14.4 Captions. All captions in this Agreement are intended solely for the convenience of the parties, and none shall be deemed to affect the meaning or construction of any provision of this Agreement.

14.5 Time. Time is of the essence of this Agreement for each provision in which time is a factor. Whenever this Agreement refers to a period of days or months, the first day or month to be counted shall be the day or month of the designated action, event or notice. Days shall be measured by calendar days, except that if the last day of a period is a Saturday, Sunday or national holiday, the period

automatically shall be extended to the next day that is not a Saturday, Sunday or national holiday.

14.6 Survival of Obligations. All obligations that expressly or by reasonable implication are to be performed, in whole or in part, after the expiration, termination, or assignment of this Agreement will survive expiration, termination, or assignment.

14.7 No Implied Third Party Beneficiaries. Except as explicitly provided to the contrary herein, nothing in this Agreement is intended or will be deemed to confer any rights or remedies on any person or legal entity other than you, your owner(s), us, and our affiliates.

14.8 Lesser Included Obligations. You agree to be bound by any promise or covenant imposing the maximum duty permitted by law which is subsumed within any provision of this Agreement, as though it were separately articulated in and made a part of this Agreement, that may result from (1) striking any portion of a provision that a court or agency may hold to be unreasonable and unenforceable; or (2) reducing the scope of any promise or covenant to the extent required to comply with a court or agency order.

14.9 Best Interests of System. Whenever we exercise a right and/or discretion to take or withhold an action, or to grant or decline to grant you a right to take or withhold an action, except as otherwise expressly provided in this Agreement, we can make our decision or exercise our discretion on the basis of our judgment of what is in our best interests. "Best interests" includes what we believe to be the best interests of the System at the time the decision is made or the right or discretion is exercised, even though (1) there may have been other alternative decisions or actions that could have been taken; (2) our decision or the action taken promotes our own financial interest; or (3) our decision or the action may apply differently to different franchisees and/or to any Modern Market Eatery Restaurants that we or our affiliates operate. In the absence of an applicable statute, we will have no liability to you for any such decision or action. If applicable law implies a covenant of good faith and fair dealing in this Agreement, we and you agree that the covenant will not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Agreement.

15. REPRESENTATIONS AND ACKNOWLEDGMENTS

You represent, acknowledge and warrant to us (and you agree that these representations, acknowledgments and warranties shall survive termination of this Agreement) that:

15.1 Legal and Business Rights and Risks. This Agreement involves significant legal and business rights and risks. We do not guarantee your success.

15.2 No Representation of your Success. We make no express or implied warranties or representations that you will achieve any degree of success in the development or operation of the Restaurants. Your success in the development and operation of the Restaurants depends ultimately on your efforts and abilities and on other factors, including market and other economic conditions, your financial condition and competition.

15.3 Our Agreements with Third Parties. We have entered, and will continue to enter, into agreements with other franchisees to develop and operate Modern Market Eatery Restaurants. The manner in which we enforce our rights and the franchisees' obligations under any of those other agreements shall not affect our ability to enforce our rights or your obligations under this Agreement.

15.4 System Modifications. We may change or modify the System, from time to time, and you will be required to make such expenditures as such changes or modifications in the System may require.

15.5 Franchise Application. All information that you provided to us in connection with your franchise application and our grant of the development rights set forth in this Agreement is truthful, complete and accurate.

15.6 Signatories to this Agreement. The persons signing this Agreement on your behalf have full authority to enter into this Agreement and the other agreements contemplated by the parties. Your execution of this Agreement or such other agreements does not and will not conflict or interfere with, directly or indirectly, intentionally or otherwise, with the terms of any other agreement with any other third party to which you or any owner is a party.

15.7 No Actual or Apparent Authority. Even though this Agreement contains provisions requiring you to develop the Restaurants in compliance with the System, we and our affiliates do not have actual or apparent authority to control the day-to-day conduct and operation of your business or employment decisions.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

FRANCHISOR:

MODERN MARKET FRANCHISING, LLC,
a Delaware limited liability company

DEVELOPER:

If a corporation, partnership, or limited liability company, print name of business entity on the line below:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Notice Address: 3001 Brighton Blvd.
Suite 701
Denver, CO 80216

Notice Address: _____

Effective Date: _____

If Developer is one or more individuals:

(Print Name):

Date: _____

(Print Name):

Date: _____

Notice Address: _____

EXHIBIT A
TO
MODERN MARKET EATERY RESTAURANT
AREA DEVELOPMENT AGREEMENT

DEVELOPMENT INFORMATION

1. **Developer:** _____
2. **Development Area:** _____
3. **Development Schedule:** As of the Effective Date, you operated _____ Modern Market Eatery Restaurants in the Development Area. You must commit to develop a minimum of 2 Restaurants. You agree to sign Franchise Agreements for and to open _____ () new Restaurants within the Development Area according to the following Schedule:

SITE ACCEPTED BY FRANCHISOR AND FRANCHISE AGREEMENTS TO BE EXECUTED BY (DATE)	RESTAURANT OPENING DEADLINE	CUMULATIVE MINIMUM NUMBER OF NEW RESTAURANTS TO BE OPEN AND OPERATING NO LATER THAN THE RESTAURANT OPENING DEADLINE (IN PREVIOUS COLUMN)

4. **Area Development Fee.** The amount of the Area Development Fee will depend on the number of Franchised Restaurants to be developed and will be calculated as follows: (i) \$40,000 for the first Franchised Restaurant; plus (ii) \$10,000 for each additional Franchise Restaurant. The total Area Development Fee due is \$ _____.

EXHIBIT B
TO
MODERN MARKET EATERY RESTAURANT
AREA DEVELOPMENT AGREEMENT

OWNERSHIP INTERESTS

Corporate Developer. If Developer is a corporation, the number of authorized shares of Developer that have been issued is _____ and the name, address, number of shares owned (legally or beneficially) and office held by each shareholder is as follows:

Name	Home Address	No. of Shares	Office Held

Limited Liability Company Developer. If Developer is a limited liability company, the name, address and percentage interest of each member is as follows:

Name	Home Address	Percentage Interest

Other Business Entity Developer. If Developer is some other business entity, the type of business entity and the name, address and ownership interest (including for a limited partnership, whether a general or limited partner) of each owner is as follows:

Type of Business Entity: _____

Name	Home Address	Ownership Interest

Control Group. Developer's Control Group shall be comprised of the following persons: _____

Development Principal. Developer's Development Principal is: _____

EXHIBIT C
TO
MODERN MARKET EATERY RESTAURANT
AREA DEVELOPMENT AGREEMENT

GUARANTEE AND ASSUMPTION OF DEVELOPER'S OBLIGATIONS

In consideration of, and as an inducement to, the execution of the Modern Market Eatery Area Development Agreement that Modern Market Franchising, LLC ("**Franchisor**"), entered into with _____ ("**Developer**"), the undersigned ("**Guarantors**"), each of whom is an officer, director, member of Developer's Control Group or a 10% Owner hereby personally and unconditionally agree as follows:

1. Guarantee To Be Bound By Certain Obligations. Guarantors hereby personally and unconditionally guarantee to Franchisor and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement or at law or in equity, that each will be personally bound by the covenants and restrictions contained in Section 5 (Covenants) of the Agreement.
2. Guarantee and Assumption of Developer's Obligations. Guarantors hereby: (1) guarantee to Franchisor and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement or at law or in equity, that Developer and any assignee of Developer's interest under the Agreement shall: (a) punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement, and (b) punctually pay all other monies owed to Franchisor and/or its affiliates; (2) agree to be personally bound by each and every provision in the Agreement, including, without limitation, the provisions of Sections 5 (Covenants) and 8.2 (Indemnification); and (3) agree to be personally liable for the breach of each and every provision in the Agreement.
3. General Terms and Conditions. The following general terms and conditions shall apply to this Guarantee:

Each of the undersigned waives: (1) acceptance and notice of acceptance by Franchisor of the foregoing undertakings; (2) notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; (3) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed; (4) any right s/he may have to require that an action be brought against Developer or any other person as a condition of liability; (5) all rights to payments and claims for reimbursement or subrogation which any of the undersigned may have against Developer arising as a result of the execution of and performance under this Guarantee by the undersigned; (6) any law or statute which requires that Franchisor make demand upon, assert claims against or collect from Developer or any others, foreclose any security interest, sell collateral, exhaust any remedies or take any other action against Developer or any others prior to making any demand upon, collecting from or taking any action against the undersigned with respect to this Guarantee; (7) any and all other notices and legal or equitable defenses to which he may be entitled; and (8) any and all right to have any legal action under this Guarantee decided by a jury.

Each of the undersigned consents and agrees that: (1) her/his direct and immediate liability under this Guarantee shall be joint and several; (2) s/he shall render any payment or performance required under the Agreement upon demand if Developer fails or refuses punctually to do so; (3) such liability shall not be contingent or conditioned upon pursuit by Franchisor of any remedies against Developer or any other person; (4) such liability shall not be diminished, relieved or otherwise affected by any amendment of the Agreement, any extension of time, credit or other indulgence which Franchisor may from time to time grant to Developer or to any other person including, without limitation, the acceptance of any partial

payment or performance or the compromise or release of any claims, none of which shall in any way modify or amend this Guarantee, which shall be continuing and irrevocable during the term of the Agreement and for so long thereafter as there are monies or obligations owing from Developer to Franchisor or its affiliates under the Agreement; and (5) monies received from any source by Franchisor for application toward payment of the obligations under the Agreement and under this Guarantee may be applied in any manner or order deemed appropriate by Franchisor. In addition, if any of the undersigned ceases to be a member of the Control Group, a 10% Owner, an officer or director of Developer or own any interest in Developer, that person agrees that the obligations under this Guarantee shall continue to remain in force and effect unless Franchisor in its sole discretion, in writing, releases those person(s) from this Guarantee. Notwithstanding the provisions of the previous sentence, unless prohibited by applicable law, the obligations contained in Section 5.2 (Restrictions on Competition) of the Agreement shall remain in force and effect for a period of two (2) years after any such release by Franchisor. A release by Franchisor of any of the undersigned shall not affect the obligations of any other Guarantor.

If Franchisor brings an action to enforce this Guarantee in a judicial proceeding, the prevailing party in such proceeding shall be entitled to reimbursement of its costs and expenses, including, but not limited to, reasonable accountants', attorneys', attorneys' assistants' and expert witness fees, cost of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses, whether incurred prior to, in preparation for or in contemplation of the filing of any such proceeding. In any judicial proceeding, these costs and expenses shall be determined by the court and not by a jury.

If Franchisor utilizes legal counsel (including in-house counsel employed by Franchisor or its affiliates) in connection with any failure by the undersigned to comply with this Guarantee, the undersigned shall reimburse Franchisor for any of the above-listed costs and expenses incurred by it.

If any of the following events occur, a default ("**Default**") under this Guarantee shall exist: (1) failure of timely payment or performance of the obligations under this Guarantee; (2) breach of any agreement or representation contained or referred to in this Guarantee; (3) the dissolution of, termination of existence of, loss of good standing status by, appointment of a receiver for, assignment for the benefit of creditors of, or the commencement of any insolvency or bankruptcy proceeding by or against, any of the undersigned; and/or (4) the entry of any monetary judgment or the assessment against, the filing of any tax lien against, or the issuance of any writ of garnishment or attachment against any property of or debts due any of the undersigned. If a Default occurs, the obligations of the undersigned shall be due immediately and payable without notice. Upon the death of one of the undersigned, the estate shall be bound by this Guarantee for all obligations existing at the time of death. The obligations of the surviving Guarantors shall continue in full force and effect.

This Guarantee shall inure to the benefit of and be binding upon the parties and their respective heirs, legal representatives, successors and assigns. Franchisor's interests in and rights under this Guarantee are freely assignable, in whole or in part, by Franchisor. Any assignment shall not release the undersigned from this Guarantee.

Section 13 (Disputes) of the Agreement is incorporated by reference into this Guarantee and all capitalized terms that are not defined in this Guarantee shall have the meaning given them in the Agreement.

IN WITNESS WHEREOF, each of the undersigned has hereunto affixed his or her signature, under seal.

Date: _____

GUARANTORS:

Print Name: _____

Home Address: _____

[add signature lines]

EXHIBIT D
TO
MODERN MARKET EATERY RESTAURANT
AREA DEVELOPMENT AGREEMENT

FORM OF NON-DISCLOSURE AND NON-COMPETITION AGREEMENT

(to be signed by Developer and its personnel)

THIS NON-DISCLOSURE AND NON-COMPETITION AGREEMENT (this “**Agreement**”) is made this _____ day of _____, 20__ , by and between _____ (“**Developer**”) and _____, who is an owner, manager, supervisor, member, partner, or a person in a managerial position with, Developer (the “**Member**”).

RECITALS:

WHEREAS, Modern Market Franchising, LLC (“**Franchisor**”) owns a format and system (the “**System**”) relating to the establishment and operation a Modern Market Eatery restaurant (each, an “**Modern Market Eatery Restaurant**”);

WHEREAS, Franchisor identifies Modern Market Eatery Restaurants by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin, including the mark “Modern Market Eatery” and such other trade names, service marks, and trademarks as Franchisor may hereafter designate for use in connection with the System (the “**Proprietary Marks**”);

WHEREAS, Franchisor and Developer have executed a Modern Market Eatery Area Development Agreement (“**Development Agreement**”) granting Developer the right to develop Modern Market Eatery Restaurants (the “**Restaurants**”) located within the Development Area described in the Development Agreement under the terms and conditions of the Development Agreement; and

WHEREAS, the Member, by virtue of his or her position with Developer, will gain access to certain of Franchisor’s Confidential Information, as defined herein, and must therefore be bound by the same confidentiality and non-competition agreement that Developer is bound by.

NOW THEREFORE, IN CONSIDERATION of these premises, the conditions stated herein, and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1. Confidential Information. Member shall not, during the term of the Development Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, entity, association, or corporation any confidential information, knowledge, or know-how concerning the methods of operation of the business franchised thereunder which may be communicated to Member or of which Member may be apprised by virtue of Developer’s operation under the terms of the Development Agreement. Any and all information, knowledge, know-how, and techniques which Franchisor designates as confidential shall be deemed confidential for purposes of this Agreement, except information which Member can demonstrate came to his or her attention before disclosure thereof by Franchisor; or which, at or after the time of disclosure by Franchisor to Developer, had become or later becomes a part of the public domain, through publication or communication by others.

2. Covenants Not to Compete.

(a) Member specifically acknowledges that, pursuant to the Development Agreement, and by virtue of his/her position with Developer, Member will receive valuable specialized training and confidential information, including, without limitation, information regarding the operational, sales, promotional, and marketing methods and techniques of Franchisor and the System.

(b) Member covenants and agrees that during the term of Member's employment with, or ownership interest in Developer, except as otherwise approved in writing by Franchisor, Member shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity:

(1) Own, maintain, operate, engage in, grant a franchise to, advise, help, make loans to, lease property to or have any interest in, either directly or indirectly, any "Competing Business", which is defined as a restaurant business: (1) that has freshly prepared menu items as a primary menu item (i.e., sales that comprise at least twenty percent (20%) of the business's sales) or that offers any individual menu item that comprises at least twenty percent (20%) of sales at Modern Market Eatery Restaurants; or (2) whose method of operation or trade dress is similar to that employed in the System.

(2) Divert or attempt to divert any present or prospective business or guest to any Competing Business by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Proprietary Marks and the System; or

(c) During the term of Member's employment with or ownership interest in Developer, there is no geographical limitation on the restrictions contained in this Section 2. Member covenants and agrees that during the continuous uninterrupted period of two (2) years from the termination of Member's employment with and/or transfer of Member's ownership interest in Developer, except as otherwise approved in writing by Franchisor, Member shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity, own, maintain, operate, engage in, or have any interest in any Competing Business which is, or is intended to be, located within the Development Area, within three (3) miles of the border of the Development Area or within a three (3) mile radius around any then-existing Modern Market Eatery restaurant operating under the System.

3. Injunctive Relief. Member acknowledges that any failure to comply with the requirements of this Agreement will cause Franchisor irreparable injury, and Member agrees to pay all costs (including without limitation reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) incurred by Franchisor in obtaining specific performance of, or an injunction against violation of, the requirements of this Agreement.

4. Severability. All agreements and covenants contained herein are severable. If any of them, or any part or parts of them, shall be held invalid by any court of competent jurisdiction for any reason, then the Member agrees that the court shall have the authority to reform and modify that provision in order that the restriction shall be the maximum necessary to protect Franchisor's and/or Member's legitimate business needs as permitted by applicable law and public policy. In so doing, the Member agrees that the court shall impose the provision with retroactive effect as close as possible to the provision held to be invalid.

5. Delay. No delay or failure by Franchisor or Developer to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right provided herein, and no waiver of any violation of any terms and provisions of this Agreement shall be construed as a waiver of any succeeding violation of the same or any other provision of this Agreement.

6. Third-Party Beneficiary. Member hereby acknowledges and agrees that Franchisor is an intended third-party beneficiary of this Agreement with the right to enforce it, independently or jointly with Developer.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Developer and the Member attest that each has read and understands the terms of this Agreement, and voluntarily signed this Agreement on the date first written above.

DEVELOPER:

MEMBER:

[NAME]

[NAME]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT B
FRANCHISE AGREEMENT

**MODERN MARKET EATERY
FRANCHISE AGREEMENT**

Franchisee: _____

Restaurant Premises: _____

MODERN MARKET EATERY FRANCHISE AGREEMENT

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1. DEFINITIONS.....	1
2. GRANT, INITIAL TERM, LIMITED EXCLUSIVITY.....	3
3. DEVELOPMENT OF THE RESTAURANT	4
4. FEES	8
5. DUTIES OF FRANCHISOR.....	10
6. TRAINING	11
7. MANUAL.....	13
8. OPERATION OF THE RESTAURANT	14
9. MODIFICATIONS TO THE SYSTEM	21
10. MARKETING.....	22
11. INSURANCE.....	26
12. ACCOUNTING AND RECORDS	27
13. PROPRIETARY MARKS AND THE WORKS	28
14. YOUR ORGANIZATION AND MANAGEMENT.....	30
15. COVENANTS	32
16. TRANSFER.....	34
17. GENERAL RELEASE	38
18. RENEWAL.....	39
19. DEFAULT AND TERMINATION	40
20. OBLIGATIONS UPON TERMINATION OR EXPIRATION	43
21. INDEPENDENT CONTRACTOR AND INDEMNIFICATION.....	45
22. APPROVALS AND WAIVERS.....	46
23. FORCE MAJEURE	47
24. NOTICES.....	47

25.	ENTIRE AGREEMENT.....	47
26.	DISPUTES.....	48
27.	SEVERABILITY AND CONSTRUCTION.....	49
28.	REPRESENTATIONS AND ACKNOWLEDGMENTS.....	50

EXHIBITS

A – Franchise Information

B – Ownership Information

C – Guarantee and Assumption of Franchisee’s Obligations

D – Conditional Assignment and Power of Attorney – Telephone and On-Line Numbers and Listing

E – Form of Lease Addendum

F – Form of Non-Disclosure and Non-Competition Agreement

G – ACH Authorization Form

FRANCHISE AGREEMENT

This AGREEMENT is entered into by and between Modern Market Franchising, LLC, a Delaware limited liability company (“*we*,” “*us*,” “*our*,” or “*Franchisor*”) and the person(s) or entity identified on Exhibit A to this Agreement (“*you*,” “*your*,” or “*Franchisee*”) as of the Effective Date (as defined in Section 1 and as indicated on the signature page of this Agreement).

BACKGROUND

A. We and our affiliates have developed a system (the “*System*”) relating to the establishment and operation of premium fast casual restaurants under the name “Modern Market Eatery” and related trademarks with a menu consisting of freshly prepared sandwiches, salads, plated dishes, soups, pizzas and beverages.

B. The distinguishing characteristics of the System include specialty dishes, beverages (including beer and wine at some locations), and other food items that are prepared in accordance with secret recipes and manufacturing processes owned by us and our affiliates; distinctive exterior and interior restaurant design, décor, color scheme, fixtures, and furnishings; standards and specifications for ingredients, food preparation, equipment, supplies, and restaurant operations; copyrights and copyrighted materials (the “*Works*”), branded products and merchandise, and advertising and promotional programs; all of which we may change, improve, and further develop from time to time.

C. We and our affiliates identify the System and the restaurants operating under it by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin, including the mark “Modern Market Eatery” and such other trade names, service marks, and trademarks as we may in the future designate for use in connection with the System (the “*Proprietary Marks*”).

D. You wish to obtain the right to establish and operate a Modern Market Eatery restaurant at the Premises (as defined in Section 1 below).

In recognition of all of the details noted above, the parties have decided to enter into this Agreement, taking into account all of the promises and commitments that they are each making to one another in this Agreement, and they agree as follows:

1. DEFINITIONS

The terms defined in the “Background” section and this Section 1 have the meanings set forth in those Sections. Other capitalized terms used in this Agreement are defined where they appear within the text of this Agreement.

1.1 “*Designated Supplier*” means a manufacturer, wholesaler, distributor, dealer, retailer, or other vendor or source that we designate as the source for particular products or services.

1.2 “*Effective Date*” means the date entered in the space so designated on the signature page of this Agreement, which is the date that we counter-sign this Agreement.

1.3 “*Force Majeure*” means any natural disaster, strike, lock-out or other industrial disturbance, war (declared or undeclared), riot, epidemic, fire or other catastrophe, act of any government or other third party and any other cause not within the control of the party affected thereby.

1.4 “**Franchisee Affiliate**” means any business entity that controls, is controlled by, or is under common control with Franchisee.

1.5 “**Gross Sales**” means the aggregate amount of all revenues generated from the sale of all products and services sold and all other income of every kind related to the Restaurant, whether for cash or credit (and regardless of collection in the case of credit), whether from sales on the Premises, by delivery, from catering, or other sales methods (whether the sales method is permitted or not). You may not reduce Gross Sales by the amount of any discounts provided to employees, family members and other businesses that you control. Gross Sales do not include sales taxes or other taxes collected from guests for transmittal to the appropriate taxing authority, proceeds from the sale of gift cards or stored value cards, and guest refunds made in good faith. We reserve the right to modify our policies consistent with restaurant industry practices regarding revenue recognition, revenue reporting, and the inclusion in or exclusion of certain revenue from “Gross Sales” as circumstances, business practices, and technology change. A current list of exclusions can be found in the Manual.

1.6 “**Including**” or “**Includes**” means “including (or includes), but not limited to,” “including (or includes) without limitation,” and similar constructions.

1.7 “**Managers**” means the individuals who you appoint as an Operating Principal and a General Manager or Assistant General Manager. You understand that the Managers must meet the criteria we establish and provide to you in writing. The General Manager and Front of the House Manager positions may be filled by one person.

1.8 “**Manual**” means our confidential operations manual. The term “**Manual**” also includes all written correspondence from us regarding the System, other publications, materials, drawings, memoranda, videos, CDs, and electronic media that we may provide to you.

1.9 “**Brand Fund**” means the common pool of funds for the enhancement, advancement and protection of the System, advertising and promotion to which franchised Modern Market Eatery Restaurants contribute and which we administer as provided in Section 10.

1.10 “**Modern Market Eatery Restaurant**” means a restaurant operated by us, our affiliate, or an authorized franchisee using the System and the Proprietary Marks.

1.11 “**Opening Date**” means the date that you open the Restaurant for business; we may insert that date in Appendix A at any time.

1.12 “**Operating Principal**” means the individual whose role is defined in Section 14.5 and who is identified in Exhibit B.

1.13 “**Premises**” means the location that we have accepted for the Restaurant, as specified in Exhibit A.

1.14 “**Restaurant**” means the franchised Modern Market Eatery restaurant that you operate at the Premises.

2. GRANT, INITIAL TERM, LIMITED EXCLUSIVITY

2.1 Grant. We grant you the right, and you undertake the obligation, on the terms and conditions set forth in this Agreement, to establish and operate the Restaurant at the Premises and a license to use the Proprietary Marks and the System solely in connection with the Restaurant in compliance with the operating standards set forth in the Manual (the “*Franchise*”). If, at the time of execution of this Agreement, you have not secured the Premises for the Restaurant that we have accepted, you must select a site for the Restaurant in accordance with Section 3.2 of this Agreement.

2.2 Initial Term. Unless terminated sooner as provided in this Agreement, the initial term of this Agreement (the “*Initial Term*”) expires on the ten (10) year anniversary of the Opening Date. Your rights to seek a renewal franchise agreement for the additional terms are set forth in Section 18.

2.3 Protected Area. During the Initial Term and subject to the reserved rights in Section 2.4, we and our affiliates will not operate, or license others to operate, any new Modern Market Eatery restaurant in the geographic area described in Exhibit A (“*Protected Area*”), provided that you are in compliance with the terms of this Agreement and any other agreements with us and our affiliates and you are current on all obligations due to us and our affiliates. This Section does not prohibit us and our affiliates, from: (1) operating, and licensing others to operate, Modern Market Eatery restaurants in the Protected Area that are open and operating or under development as of the Effective Date; (2) during the Initial Term, operating, and licensing others to operate, Modern Market Eatery restaurants at any location outside the Protected Area; or (3) after this Agreement terminates or expires, operating, and licensing others to operate, Modern Market Eatery restaurants at any location including within the Protected Area.

2.4 Our Reserved Rights in the Protected Area. We reserve all rights to use and license the System and the Proprietary Marks other than those expressly granted under this Agreement. Nothing in this Agreement prohibits us or our affiliates from, among other things:

2.4.1 operating or licensing others to operate at any location (including within the Protected Area), during the Initial Term, any type of restaurant other than a Modern Market Eatery restaurant;

2.4.2 selling anywhere (including within the Protected Area) the same or similar products that are authorized for sale at Modern Market Eatery restaurants under the Proprietary Marks or under other trademarks or trade dress and through any other channel of distribution, whether such channel of distribution is now in existence or is hereafter developed and whether at retail or wholesale including, without limitation, sales through catalogs, e-commerce, mail order, carts or kiosks, mass merchandise, supermarkets, restaurants, institutional guests, virtual kitchens, club stores and any other outlet or method of distribution, pursuant to any terms and conditions as we may deem appropriate;

2.4.3 developing, owning and selling franchises for other franchise systems for the same or similar products and services using trade names and trademarks other than the Proprietary Marks that may operate in the Protected Area;

2.4.4 purchasing, being purchased by, merging or combining with, businesses that directly compete with Modern Market Eatery restaurants and that may operate businesses in the Protected Area; and

2.4.5 operating or licensing others to operate Modern Market Eatery restaurants at any Non-Traditional Facility inside the Protected Area. The term “*Non-Traditional Facility*” includes, among other things, college campuses, schools, hotels, resorts, hospitals, casinos, airports and other travel related

facilities; federal, state, or local government facilities (including military bases); theme and amusement parks; recreational facilities; venues in which foodservice is or may be provided by a master concessionaire or contract foodservice provider; seasonal facilities; shopping malls; theaters; sporting event arenas and centers; gas stations, convenience stores.

3. DEVELOPMENT OF THE RESTAURANT

3.1 Your Responsibility. You assume all cost, liability, expense, and responsibility for constructing, equipping and operating the Restaurant in accordance with our standards at the Premises. If the Premises has not been designated as of the Effective Date, then you must: (1) follow the site selection procedures set forth in Section 3.2 below; and (2) obtain our acceptance of a site within one hundred and twenty (120) days after the Effective Date (“**Site Acceptance Deadline**”). You must open the Restaurant by no later than 12 months after the Effective Date (“**Opening Deadline**”). Any failure by you to meet the Site Acceptance Deadline (if applicable) or the Opening Deadline shall be a default of this Agreement for which we can terminate this Agreement without providing you an opportunity to cure the default. **TIME IS OF THE ESSENCE.**

3.2 Site Selection.

3.2.1 We will provide you with our site selection criteria and, as you may request, a reasonable amount of consultation with respect to the site selection process. We may change our site selection criteria, which may include population density and composition, leasing costs, parking, visibility, character of the neighborhood, competition from other restaurants in the area, proximity to other businesses (including businesses operated or franchised by us or our affiliates), the nature of other businesses in proximity to the site and other commercial characteristics, and the size, appearance, other physical characteristics and a site plan of the Premises. You shall use only registered architects, registered engineers, and professional and licensed contractors who have been approved by us.

3.2.2 Within ninety (90) days after the Effective Date you must provide a site review kit to us including a complete site report and other materials and information we request for a suitable site located within the geographic area identified on Exhibit A (“**Site Selection Area**”). You should not make any binding commitments to acquire any interest in any site for the Restaurant until we have accepted that site in writing.

3.2.3 Within thirty (30) days after we receive your detailed site review kit, we or our designee will conduct an evaluation of the proposed site(s) and accept or reject your proposed sites. At our option, we may conduct an on-site evaluation of the proposed site(s). We do not charge any fees to conduct one (1) market visit, however; if we require, or if you request, any additional market visits, we may require you to pay a site selection assistance fee (“**Site Selection Assistance Fee**”) to us in the amount of Five Hundred Dollars (\$500) and reimburse us for our travel expenses associated with such visits. We will not unreasonably withhold our acceptance of a site that meets our site selection criteria. In determining whether to accept or reject a proposed site, we also may consider the site’s proximity both to the Site Selection Area’s boundaries and to other existing or potential sites for Modern Market Eatery Restaurants located outside the Site Selection Area. If we do not accept a proposed site in writing in this time period, we will be deemed to have rejected the site.

3.2.4 You agree that our acceptance of a site for the Restaurant and any information communicated to you regarding our site selection criteria for Modern Market Eatery Restaurants does not constitute a warranty or representation of any kind, express or implied, as to the suitability of any site for the Restaurant or for any other purpose. Our acceptance of a site is not a representation or a promise by us that the Restaurant at the site will achieve certain revenues or a certain level of profitability. Similarly, our

acceptance of one or more sites and our rejection of other sites is not a representation or a promise that the accepted site will have higher revenues or be more profitable than a site that we rejected.

3.2.5 You agree that your decision to develop and operate the Restaurant at a site that we accept is based solely on your own independent investigation of the suitability of that site for a Restaurant. We assume no liability or responsibility for: (1) evaluation of the soil of the site for hazardous substances; (2) inspection of any structure at the site for asbestos or other toxic or hazardous materials; (3) compliance with the Americans with Disabilities Act (“*ADA*”); or (4) compliance with any other applicable law. It is your sole responsibility to obtain satisfactory evidence and/or assurances that the site and any structures on the site are free from environmental contamination and in compliance with the requirements of the ADA.

3.3 Site Acquisition Period. If you propose to purchase the site for the Restaurant, you must provide us with a copy of the deed or other evidence of ownership within fifteen (15) days after we accept the site (the “*Site Acquisition Period*”). If you propose to lease or sublease the site, you must provide us with a copy of the fully-executed lease or sublease for the site (“*Lease*”) within the Site Acquisition Period. After you secure an ownership or leasehold interest in the site, we will insert its address into Exhibit A, and it will be the Premises. You hereby authorize us to deliver to you replacements for Exhibit A identifying the Premises, and upon our delivery to you of a revised Exhibit A, that Exhibit A shall be binding upon us and you as if we and you had signed that Exhibit A.

3.4 Lease Provisions. We have the right to review the terms of the Lease for the Premises before you sign the Lease. The Lease must: (1) in form and substance, be satisfactory to us; (2) include all of the provisions set forth in the form of Addendum to Lease attached to this Agreement as Exhibit E; (3) be for an aggregate term of (at least) ten (10) years in a combination of initial and renewal terms; (4) contain terms and conditions and payments that are commercially reasonable in our opinion; and (5) include any other provisions as we may require. The Lease shall not contain any covenants or other obligations that would prevent you from performing your obligations under this Agreement. You acknowledge that our review of the Lease is not a guarantee or warranty, express or implied, of the success or profitability of a Modern Market Eatery restaurant operated at the Premises. Our review will indicate only whether we believe that the terms of the Lease meet our then-acceptable criteria.

3.5 Permitting/Licensing. After acquiring a possessory interest in the Premises, you shall promptly begin the permitting, licensing. In markets where permitted, you will need a beer, wine and liquor license or permit.

3.6 Construction of the Restaurant.

3.6.1 You assume all cost, liability and expense for developing, constructing and equipping the Restaurant. We will furnish to you plans and specifications (which may be prototype plans, construction or as built plans for an existing restaurant, or standard plans for interior space such as cooking lines, seating area and guest queue) for a Modern Market Eatery restaurant, including requirements for dimensions, design, image, interior layout, décor, fixtures, equipment, signs, security, furnishings, and color scheme. It shall be your responsibility to have prepared all required construction plans and specifications to suit the shape, dimensions and utility requirements of the Premises, and you must ensure that these plans and specifications comply with applicable ordinances, building codes and permit requirements and with lease requirements and restrictions. You shall use only registered architects, registered engineers, and professional and licensed contractors who have been approved by us.

3.6.2 Prior to submission to local authorities, you shall submit proposed construction plans, specifications and drawings for the Restaurant (“**Plans**”) to us and shall, upon our request, submit all revised or “as built” Plans during the course of such construction. We will approve or refuse to approve the Plans and notify you within thirty (30) days after we receive the Plans. Once we have approved the Plans, no substantial change shall be made to the Plans without our prior approval. If, in the course of construction, any such change in the Plans is contemplated, our approval must first be obtained before proceeding. We shall approve or reject Plan changes within ten (10) business days after receipt. We shall not unreasonably withhold our approval of the Plans or revisions to the Plans.

3.6.3 You are prohibited from beginning site preparation or construction prior to receiving written notification from us that we have approved the Plans, and you, we, and your designer and / or general contractor have met to review the proposed construction process. You must construct the Restaurant in accordance with Plans approved by us and must comply in all respects with applicable laws, ordinances and local rules and regulations. The Restaurant may not open if construction has not been performed in substantial compliance with Plans approved by us, and this Agreement may be terminated if such non-compliance is not cured within a commercially reasonable amount of time. Once construction has commenced, it shall continue uninterrupted, except for interruption by reason of events constituting Force Majeure, until completed.

3.7 Acquisition of Necessary Furnishings, Fixtures and Equipment.

3.7.1 You agree to use in the development and operation of the Restaurant only the fixtures, furnishings, décor items, supplies, equipment, and signs that we have approved for Modern Market Eatery Restaurants as meeting our specifications and standards for quality, design, appearance, function, and performance. You further agree to place or display at the interior and exterior of the Restaurant only those signs, décor items, emblems, lettering, logos and display materials that we approve in writing.

3.7.2 You must purchase or lease approved brands, types or models of fixtures, furnishings, equipment, supplies and signs only from suppliers designated or approved by us, which may include us or our affiliates. If you propose to purchase, lease or otherwise use any items which have not been approved by us, you must first notify us in writing and, at your sole expense, submit to us upon our request sufficient specifications, photographs, drawings and/or other information or samples for a determination as to whether those items comply with our specifications and standards. We will, in our sole discretion, approve or reject the items and notify you within thirty (30) days after we receive the request.

3.8 Reports. If requested by us, you must submit to us, on a weekly basis (or as we otherwise request), a report with photographs showing progress made in connection with the construction and equipping of the Restaurant.

3.9 Limitation of Liability. Notwithstanding our right to approve the Plans and to inspect the construction work at the Restaurant, we and our designees shall have no liability or obligation with respect to the Premises, the design or construction of the Restaurant or the furnishings, fixtures, equipment and signage to be acquired; our rights being exercised solely for the purpose of ensuring compliance with the terms and conditions of this Agreement.

3.10 Final Inspection and Opening Deadline.

3.10.1 You must complete construction of the Restaurant within one hundred and eighty (180) days after the start of construction. The requirement to complete construction of the Restaurant includes obtaining all required construction and occupancy licenses, permits and approvals, obtaining beer, wine or liquor permit, developing the Premises, purchasing all required equipment and supplies, installing all required furnishings, fixtures, equipment and signs, and doing all other things as may be required pursuant to this Agreement or by practical necessity to have the Restaurant ready to open for business.

3.10.2 You shall notify us in writing at least fifteen (15) days prior to the date you expect construction and/or renovation to be completed and a certificate of occupancy to be issued ("**Occupancy Notice**") for the Restaurant. After our receipt of the Occupancy Notice, we reserve the right to conduct a final inspection of the Restaurant to determine if you have complied with this Agreement in connection with the development of the Restaurant including the final Plans. We shall not be liable for delays or loss occasioned by our inability to complete our investigation and to make a determination within this thirty (30) day period. You must submit a copy of the certificate of occupancy to us.

3.10.3 You shall not open the Restaurant for business without our express written authorization, which will not be granted unless you have satisfied the conditions contained in Section 3.12 below. You may not open the Restaurant for at least five (5) days after the date construction is completed so that your employees may be trained in the management and operation of the Restaurant. You must open the Restaurant before the Opening Deadline. You must provide a written report to us in a form specified by us detailing all construction and development costs and expenses for the Restaurant within thirty (30) days after the opening of the Restaurant. You acknowledge and agree that we will share these costs and expenses with other existing and prospective franchisees and developers of Modern Market Eatery Restaurants.

3.11 Opening of the Restaurant. We will not authorize the opening of the Restaurant unless all of the following conditions have been met:

3.11.1 You are not in material default under this Agreement or any other agreements with us; you are not in default beyond the applicable cure period under any real estate lease, equipment lease or financing instrument relating to the Restaurant); you are not in default beyond the applicable cure period with any vendor or supplier to the Restaurant); and for the previous six (6) months, you have not been in material default beyond the applicable cure period under any agreement with us;

3.11.2 We have determined that the Restaurant has been constructed and/or renovated and equipped substantially in accordance with the requirements of this Agreement including the Plans;

3.11.3 You have obtained, provided copies to us, and maintain all required building, utility, sign, health, sanitation, business and other permits and licenses applicable to the Restaurant (including a permit to allow you to operate a bar and to serve alcoholic beverages if you plan to offer beer and wine at the Restaurant);

3.11.4 You have purchased or leased and installed all specified and required fixtures, equipment, furnishings and interior and exterior signs for the Restaurant;

3.11.5 You have purchased the required computer and point of sale systems and they are operational;

3.11.6 You have purchased an opening inventory of supplies for the Restaurant of only authorized and approved products and other materials and supplies;

3.11.7 Your Operating Principal, General Manager or Assistant General Manager, any other managers, owners, or employees we designate have completed our training program and you have hired and trained a staff in accordance with the requirements of Section 6;

3.11.8 You have paid the Franchise Fee (as defined in Section 4.1) and any other amounts then due to us;

3.11.9 You have signed this Agreement and all other agreements including the electronic funds transfer documents described in Section 4.6 as required by us;

3.11.10 You have obtained a certificate of occupancy and any other required health, safety or fire department certificates and provided copies to us; and

3.11.11 You have obtained and provided to us copies of certificates for all insurance policies required by Section 11 or such other evidence of insurance coverage and payment of premiums as we reasonably may request.

3.11.12 The date that we authorize you to open the Restaurant will be the Opening Date, which we may insert in Exhibit A or provide to you by written notice.

3.12 Relocation. Once the Premises is secured, you may not operate the Restaurant at any site other than the Premises and may not relocate the Restaurant without our prior written consent, which may be withheld by us in our sole discretion. If we approve a relocation of the Restaurant, you must pay a relocation fee in an amount equal to Two Thousand Five Hundred (\$2,500). Our acceptance of a location as the Premises shall not be deemed to be a guarantee or assurance by us that the Restaurant will be profitable or successful.

4. FEES

4.1 Franchise Fee. In consideration of the Franchise rights granted in this Agreement, you must pay us a non-refundable initial franchise fee in the amount set forth in Exhibit A when you sign this Agreement (“*Franchise Fee*”).

4.2 Royalty Fee. Beginning with opening of the Restaurant, you must pay us a non-refundable royalty fee for the continued use of the Franchise rights in an amount equal to five percent (5%) of the Gross Sales of the Restaurant (the “*Royalty Fee*”). If, due to federal, state or local laws, you are prohibited from receiving a percentage royalty based on alcoholic beverage revenues, you must pay us a royalty fee on all Gross Sales except alcoholic beverage revenues in the same dollar amount as would have been paid if you paid the specified royalty fee percentage on all Gross Sales. The Royalty Fee is due weekly on the date we specify, which we may change.

4.3 Brand Fund Contribution. Beginning with the first week of operation of the Restaurant, you must make a non-refundable contribution to the Brand Fund up to three percent (3%) of the Gross Sales of the Restaurant (the “*Brand Fund Contribution*”) at the same time and in the same manner as you pay the Royalty Fee. The Brand Fund Contribution is described in Section 10.3.

4.4 Technology Fee. You must pay us the technology fee (“*Technology Fee*”) we specify from time to time. We anticipate that this fee may cover any technology services provided by us and could include access to a franchisee Intranet, website hosting, and access to cloud-based data and storage communication system.

4.5 Other Funds Due. You agree to pay us, within ten (10) days of our written request (which is accompanied by reasonable substantiating material), any monies that we have paid, or that we have become obligated to pay, on your behalf, by consent or otherwise under this Agreement.

4.6 Taxes Imposed on Us. If any taxes, fees or assessments are imposed on us by reason of our acting as franchisor or licensing the Proprietary Marks under this Agreement, you must reimburse us for the amount of those taxes, fees or assessments within thirty (30) days after receipt of an invoice from us.

4.7 Sales Reports and Payment Method.

4.7.1 You must submit a complete and accurate report of Gross Sales for the Restaurant for the periods we designate (which we may change), on the form we require.

4.7.2 You must designate an account at a commercial bank of your choice (the “*Account*”) for the payment of amounts due to us and/or our affiliates, including Royalty Fees and Brand Fund Contributions. You must furnish us and the bank with authorizations as necessary to permit us to make withdrawals from the Account by electronic funds transfer (including the ACH Authorization Form attached as Exhibit G). On due date specified by us (“*Due Date*”), we will transfer from the Account an amount due for Royalty Fees and Brand Fund Contributions as reported to us in your sales report or determined by us based on the records contained in the point of sale terminals of the Restaurant, as well as any other fees due to us and/or our affiliates. If you have not reported Gross Sales to us, we will transfer from the Account an amount calculated in accordance with our estimate of the Gross Sales. If, at any time, we determine that you have underreported the Gross Sales of the Restaurant, or underpaid the Royalty Fees, Brand Fund Contributions or other amounts due to us under this Agreement or any other agreement, we shall initiate an immediate transfer from the Account in the appropriate amount in accordance with the foregoing procedure, including interest as provided in this Agreement. Any overpayment will be credited to the Account effective as of the first reporting date after the parties determine that such credit is due.

4.7.3 You agree to maintain sufficient funds in the Account at all times to cover all Royalty Fees, Brand Fund Contributions and other fees payable to us or our affiliates. If funds in the Account are insufficient to cover the amounts payable at the time we make our electronic funds transfer, the amount of the shortfall will be deemed overdue. You will notify us at least ninety (90) days before closing or changing the Account. If such Account is closed or ceases to be used, you will immediately provide all documents and information necessary to permit us to debit the amounts due from an alternative account. We may require you to pay any amounts due under this Agreement or otherwise by means other than automatic, electronic debit (e.g., by check or wire transfer) whenever we deem appropriate, and you must comply with our payment instructions. If we supply products to you, we may require pre-payment or COD depending on our then-current policies and your payment record with us.

4.7.4 Notwithstanding the provisions of this Section 4.6, we reserve the right to modify, at our option, the timing and method by which you pay the Royalty Fees and other amounts owed under this Agreement, including Brand Fund Contributions and interest charges, which shall be effective upon receipt of written notice from us.

4.8 Interest and Insufficient Funds Charges. If any payment is overdue, you must pay us, in addition to the overdue amount, (1) a late fee of 5% of the total overdue amount; and (2) interest on the overdue amount from the date it was due until paid at the rate of one and one-half percent (1.5%) per month (but not more than the maximum rate permitted by applicable law). The interest charges are in addition to any other remedies we may have. In addition to the interest charges, you must reimburse us for any bank fees incurred by us and pay us Two Hundred Fifty Dollars (\$250) (or the maximum amount permitted by applicable law, whichever is less) to cover our administrative expenses in responding each time you deliver

a check to us which does not clear your bank account, or where we are not able to complete an electronic funds transfer due to insufficient funds in your Account. If you incur three (3) or more insufficient funds charges in any twelve (12) month period, we may terminate this Agreement.

4.9 Application of Payments. We have the right to apply payments from you in any way we choose, to any amounts you owe us.

4.10 No Offset. You shall not withhold or off-set any portion of any payment due to our alleged non-performance under this Agreement or any other agreement by and between you and us or our respective affiliates.

4.11 Partial Payments. No payment by you or acceptance by us of any monies under this Agreement for a lesser amount than due shall be treated as anything other than a partial payment on account. Your payment of a lesser amount than due with an endorsement, statement or accompanying letter to the effect that payment of the lesser amount constitutes full payment shall be given no effect, and we may accept the partial payment without prejudice to any rights or remedies we may have against you. Acceptance of payments by us other than as set forth in this Agreement shall not constitute a waiver of our right to demand payment in accordance with the requirements of this Agreement or a waiver by us of any other remedies or rights available to us pursuant to this Agreement or under applicable law. Notwithstanding any designation by you, we shall have sole discretion to apply any payments by you to any of your past due indebtedness for Royalty Fees, Brand Fund Contributions and fees, purchases from us or our affiliates, interest or any other indebtedness. We have the right to accept payment from any other entity as payment by you. Acceptance of that payment by us will not result in that other entity being substituted for you.

4.12 Collection Costs and Expenses. You must pay to us on demand any and all collection costs and expenses (including costs and commissions due a collection agency, costs incurred in creating or replicating reports demonstrating Gross Sales of the Restaurant, reasonable legal fees, attorneys' fees, court costs, expert witness fees, discovery costs and reasonable legal fees, attorneys' fees and costs on appeal, together with interest charges on all of the foregoing) incurred by us in enforcing the terms of this Agreement, including in collecting any monies owed by you to us.

5. DUTIES OF FRANCHISOR

5.1 Plans and Specifications. We will furnish you with plans and specifications for construction of a Modern Market Eatery restaurant, including interior design and layout plans.

5.2 Manual. We will loan the Manual to you for the Initial Term.

5.3 Training. We will provide a training program for the persons that we require or permit to attend training under Section 6 of this Agreement.

5.4 Supervision. We will provide pre-opening and opening supervision and assistance as we deem advisable.

5.5 Suppliers. We will name Designated Suppliers as we deem appropriate and review suppliers that you nominate, subject to the limitations in Section 8.3.

5.6 Marketing Materials. In addition to the advertising and promotional materials produced and placed by the Brand Fund of behalf of the System, we will make available to you for purchase certain advertising and promotional materials that you can adapt for the Restaurant.

5.7 Operational Advice. We will provide to you from time to time, as we deem appropriate, advice and written materials concerning techniques of managing and operating a Restaurant.

6. TRAINING

6.1 Pre-Opening Training.

6.1.1 At least thirty (30) days before opening the Restaurant, your Operating Principal, and General Manager or Assistant General Manager, any managers, owners or employees we designate must attend and successfully complete the manager in training (“**Manager in Training**”) program to our satisfaction. The Manager in Training program may vary based upon the role of the attendee but will typically last up to seven (7) weeks including a “seasoning” week of five (5) days running shifts with the training General Manager. We do not charge for up to four (4) of your employees to attend the Manager in Training program. We may increase or reduce the required training based on our assessment of an attendee’s prior experience.

6.1.2 We will certify any supervisory employee of yours who successfully completes the Manager in Training program to our satisfaction as a “**Trained Manager.**” We will authorize the Restaurant to open only after you have the required number of Trained Managers in the roles we require. We will have the right to require that your Trained Managers execute and deliver to us a Non-disclosure and Non-competition Agreement in substantially the form attached to this Agreement as Exhibit F.

6.2 Opening Team. We will provide assistance in opening the Restaurant and in training your employees as we deem appropriate in light of your needs and the availability of our personnel. We anticipate this assistance will be for a period not to exceed eleven (11) days; if we provide additional assistance, we may charge you our then-current training fee. We have the right to modify this program or the fee due for any Restaurant you open after the first Restaurant.

6.3 Training Your Employees.

6.3.1 You must have a full staff in place and available for training before training commences. We will authorize you to open the Restaurant only after an adequate number of your employees, as determined by us in our sole discretion, have attended and received certification in the position for which they were hired. Periodically, you must conduct such training programs for your employees as we may require, including those training programs required for your employees to become certified for the position(s) for which each employee was hired. Your Trained Managers are responsible for fully training the Restaurant’s employees within thirty (30) days of being hired. You will be responsible for all costs that you incur in training your employees.

6.3.2 We may periodically visit the Restaurant to ensure that your managers and staff continue to meet our standards. We have the right to de-certify any of your personnel who consistently fail to maintain our System standards as set forth in the Manual. Any such employees may not return to their positions at the Restaurant until they have been successfully retrained. If we determine, in our sole discretion, that your Trained Managers are no longer qualified to train your employees (or if you do not have any Trained Managers on staff), then you, at our election, must either have the Trained Managers attend and successfully complete the initial or other training program and be re-certified as Trained Managers or designate replacement personnel to complete the training program to be certified as your Trained Managers.

6.4 Train the Trainer Program.

6.4.1 We may require your Trained Managers to offer the training programs to your personnel before they assume their role at the Restaurant. We will evaluate all individuals trained by your Trained Managers and determine whether to certify that the trainee has completed training to our satisfaction.

6.4.2 If you operate three (3) or more Modern Market Eatery Restaurants and we have approved and certified your Trained Managers to conduct the Manager in Training program, before opening the Restaurant developed under this Agreement: (1) your Operating Principal and any managers, owners or employees we designate must attend and complete the management training program that you conduct at one of your existing Modern Market Eateries, unless the individuals previously completed that training program to our satisfaction; and (2) your Trained Managers must fully train the Operating Principal and any managers, owners or employees of the Restaurant and you may be responsible for providing the Opening Team noted in Section 6.2.

6.4.3 The content and administration of your training programs must be at least equal to those of our training programs and must be approved in advance by us. We will provide you with materials and, to the extent we deem it necessary or appropriate, assistance in designing and developing your training programs. We have the right to review your training programs periodically to ensure their quality and to verify that your personnel are being trained in a timely and satisfactory manner. We will notify you of any deficiencies in the training programs. You must promptly cure the deficiencies.

6.5 Additional Training. After the Restaurant opens for business:

6.5.1 Your employees that we reasonably designate must attend and complete, to our satisfaction, any additional training programs, certification programs or similar programs that we reasonably require. These additional programs may include classroom training, on the job training, web-based training and programs offered by third parties. We may require you to pay reasonable training fees for these programs (plus travel, meals and lodging expenses for our representatives, if we conduct the training at your Restaurant).

6.5.2 Your Operating Principal and one other management person that we approve must attend a national business meeting, our Annual Conference or any other similar meetings, conferences, retreats, or conventions we require. You are responsible for paying any registration fee for the meetings, conventions, retreats or conferences and the costs of travel and accommodations for your personnel. We reserve the right to charge you any registration fee even if your employees do not attend.

6.5.3 We periodically, as we deem appropriate, will advise and consult with you in connection with the operation of the Restaurant. We may provide these services through visits by our representatives to the Restaurant or your offices, the distribution of printed, filmed or electronic information, meetings or seminars, telephone communications, e-mail communications or other communications. We will periodically inspect the Restaurant and its operations to assist your operations and ensure compliance with the System. At your request, we may provide special assistance at the Restaurant for which you will be required to pay our per diem training fees and charges that we may establish.

6.6 Training Methods; Expenses; Fees.

6.6.1 Except for the classroom and on-the-job training portions of the training program, we have the right to provide training programs in person, by video, via the Internet, or by other means, as we determine. All training that we conduct in person will be held at a location that we designate. You are responsible for all expenses of your trainees, including the costs of transportation, lodging, meals, and wages. You may also be required to purchase training materials and uniforms. We can require that any person (including but not limited to your Operating Principal or any general managers, assistant managers, shift leaders, owners or other employees) attend and successfully complete required, optional, additional or remedial training programs.

6.6.2 We may charge you our then-current fee for training additional persons, newly-hired staff, refresher training, advanced training, and additional or special assistance or training you need or request. The current fee is Two Hundred and Fifty Dollars (\$250) per person per day plus travel, living and other expenses. If, after we train the initial Operating Principal, you send any individuals to our management training program, you must pay a training fee in the amount of Two Thousand Five Hundred Dollars (\$2,500) per person attending the management training program. For any other training, we have the right to charge you reasonable training fees for additional training programs that we administer.

6.7 Delegation. We have the right to delegate the performance of any portion or all of our obligations and duties under this Agreement to our designees, whether affiliates or agents of ours or independent contractors with whom we have contracted to provide the service.

6.8 Control by Us. Notwithstanding anything to the contrary in this Section 6, you and we recognize and agree that we do not exercise any day-to-day control of the Restaurant, including control of the security at the Restaurant, the hiring and firing of employees, or other forms of day-to-day control.

7. **MANUAL**

7.1 Access to the Manual. We will loan to you during the term of this Agreement one copy of, or provide electronic access to, the Manual, which contains information and knowledge that is unique, necessary and material to the System. The Manual contains detailed standards, specifications, instructions, requirements, methods and procedures for management and operation of the Restaurant. The Manual also may relate to: (1) the selection, purchase, storage, preparation, packaging, ingredients, recipes, service and sale of all products and beverages sold at the Restaurant; (2) management and employee training; (3) marketing, advertising and sales promotions; (4) maintenance and repair of the Restaurant building, grounds, equipment, graphics, signs, interior and exterior decor items, fixtures and furnishings; (5) employee dress attire and appearance standards; (6) menu concept and graphics; and (7) accounting, bookkeeping, records retention and other business systems, procedures and operations. You agree at all times to operate the Restaurant in strict conformity with the Manual; to maintain the Manual at the Restaurant; to not reproduce the Manual or any part of it; and to treat the Manual as confidential and proprietary; and to disclose the contents of the Manual only to your employees who have signed a confidentiality agreement and who have a demonstrated need to know the information contained in the Manual.

7.2 Modifications to the Manual. We may supplement or amend the Manual by letter, electronic mail, bulletin, videos, CDs, software or other communications concerning the System to reflect changes in the image, specifications and standards relating to developing, equipping, furnishing and operating a Modern Market Eatery restaurant. We reserve the right to furnish all or part of the Manual to you in electronic form or online (including by intranet or extranet) and to establish terms of use for electronic access to the Manual. You agree to keep your copy of the Manual current and up-to-date with all

additions and deletions provided by or on behalf of us and you agree to purchase whatever equipment and related services as may be necessary to receive these communications. If a dispute relating to the contents of the Manual develops, the master copy maintained by us at our principal offices shall control.

7.3 Electronic Access. At our option, we may post some or all of the Manual on a restricted website to which you will have access. If we do so, you agree to monitor and access the website for any updates to the Manual. Prior to accessing our restricted website you and any of your employees must agree to abide by our terms of use, which we may revise. Any passwords or other digital identifications necessary to access the Manual constitute confidential information owned by us and you must follow all instructions from us relating to the same.

8. OPERATION OF THE RESTAURANT

8.1 Compliance with System Standards. In order to protect our reputation and goodwill and to maintain high standards of operation under the System, you must operate the Restaurant in strict conformance with the methods, standards, and specifications we prescribe from time to time in the Manual or otherwise in writing. You acknowledge that the System standards may relate to any aspect of the appearance, function, cleanliness, and operation of the Restaurant. Any material failure to comply with the mandatory System standards or to pass our periodic quality control inspections will constitute a material breach of this Agreement. You acknowledge that we have the right to vary our standards and specifications, in our sole judgment, to accommodate the individual circumstances of different franchisees.

8.2 Approved Products and Services. You must offer for sale in the Restaurant all products and services that we designate as required items. You may also offer for sale any optional items and services that we have approved in writing for sale in a Modern Market Eatery restaurant; however, you may not offer or sell any unapproved products or services. You must sell products only in the weights, sizes, forms, and packaging that we have approved. You must discontinue selling or offering for sale any products or services which we, in our sole discretion, disapprove in writing at any time. If you would like to use or offer products, services, supplies, materials, and/or equipment that we have not approved, you agree to first submit to us a written request for approval and you shall refrain from offering these items at the Restaurant until you have received our written approval. We have the right to require you to use only certain brands and to prohibit you from using other brands. We may modify the list of approved brands and you shall not reorder any brand that is no longer approved.

8.3 Sourcing of Products and Services. We have the right to require that all food and beverage items, ingredients, supplies, equipment, furnishings, smallwares, merchandise, promotional items, information technology services, credit card processing services, and other products and services that you purchase for operation of or sale in the Restaurant: (1) meet specifications that we establish; and/or (2) be purchased only from suppliers that we have expressly approved; and/or (3) be purchased only from a Designated Supplier (which may be us or an affiliate or a buying cooperative that we organize); and/or (4) establish food commissaries and distribution facilities (directly, through our affiliates, and/or our designees), and designate these as Designated Suppliers or approved suppliers. To the extent that we establish specifications, require approval of suppliers, or name Designated Suppliers for particular items, we will provide the requirements to you in writing. If we elect to name ourselves or an affiliate as the Designated Supplier for a particular item, you must purchase all of your requirements of the item from us or the affiliate. You must submit orders in accordance with the terms and procedures we specify. Any conflicting terms and conditions of sale stated in your purchase order will have no effect. In case of shortages, we will have complete discretion to allocate products among Modern Market Eatery Restaurants (and, at our option, other channels of distribution). If shortages or an event of Force Majeure prevent us from being able to supply your Restaurant with its requirements, you are authorized to purchase supplies from other sources for use at the Restaurant until we are again able to meet the Restaurant's requirements,

provided that the alternative supplies meet our specifications and that we have given prior written approval. At sole our discretion, you agree that we shall have the right to request that any Designated Supplier or any approved suppliers provide us any reports we request including usage reports for products purchased for the Restaurant.

8.4 Supplier Review Process. If we require you to use an approved supplier for a particular item, but you wish to purchase the item from a supplier that we have not approved, you may submit a written request for approval of the supplier, unless it is an item for which there is a Designated Supplier. We have no obligation to review or approve a greater number of suppliers for an item than the number we deem reasonable, and any proposed supplier relationship must not jeopardize the availability of any special pricing or other benefits offered by our existing suppliers based on system-wide purchases. We will provide our standards and specifications to you or to the proposed supplier, subject to the supplier's execution of a confidentiality agreement in a form acceptable to us. We have the right to inspect the proposed supplier's facilities and to require delivery of product samples either to us or to an independent laboratory designated by us for testing. Upon completion of our analysis, we will notify you in writing of approval or disapproval of the proposed supplier. You agree to pay a charge not to exceed our reasonable costs incurred in evaluating the supplier, regardless of whether or not we approve the supplier. You may not purchase, sell, or offer for sale any products or services of the proposed supplier until you receive our written approval of the proposed supplier. We have the right to re-inspect the facilities and products of any approved supplier and to revoke approval upon the supplier's failure to meet any of our then-current criteria. If you receive a notice of revocation of approval, you agree to cease purchasing products from the disapproved supplier and, in the case of revocation based on the failure of the supplier's products to meet our standards, you agree to dispose of your remaining inventory of the disapproved supplier's products as we direct.

8.5 Proprietary Items. You acknowledge and agree that any proprietary items ("**Proprietary Items**") that we may specify for sale at the Restaurant are manufactured in accordance with our secret blends, standards, and specifications, and are Proprietary Items of ours and/or our affiliates. To maintain the high standards of quality, taste, and uniformity associated with any Proprietary Items sold under the System, you agree to buy Proprietary Items only from a Designated Supplier, and not to offer or sell any items that are similar to (but not the same as) Proprietary Items at or from the Restaurant. In connection with the handling, storage, transport and delivery of any Proprietary Items that you buy from us, our affiliates or designee(s), you agree that any action (or inaction) by a third party (e.g., an independent carrier) in connection with the handling, storage, transport and delivery of the Proprietary Items shall not be attributable to us, nor constitute negligence on our part.

8.6 Rebates. We may negotiate purchasing arrangements under which suppliers agree to make services, products, equipment, materials and other goods and services available to Modern Market Eatery Restaurants. Subject to applicable law, we may earn money from the suppliers based on your purchases in the form of rebates, commissions, or other payments. You acknowledge that these payments compensate us for the cost of negotiating and maintaining the purchasing arrangements with the suppliers and that, subject to applicable laws, we have no obligation to remit the funds to you.

8.7 Catering, Delivery and Other Programs. We have the right (but no obligation) to establish Restaurant delivery, catering, fundraising, and/or delivery programs either on our own or in conjunction with one or more outside vendors. You must offer any on-line ordering and delivery options we require. Other programs we establish may be mandatory or optional. You must use any approved technology, equipment (such computer or POS related equipment) or software we require and comply with all other rules and procedures that we specify. You must pay any fees and costs associated with participating in these programs. We may define designated service areas for these programs. We can modify or terminate these programs by notice to the participating restaurants.

8.8 No Other Sales Channels. You may not engage in any grey marketing activities where you take advantage of purchasing arrangements for Modern Market Eatery Restaurants and transfer products to any other restaurant or other business not operating under the System. You may not sell products or services through any channel or facility other than to retail guests for consumption on the Restaurant premises, or for personal carry-out consumption, including any off-premises programs, food trucks, carts, kiosks, virtual kitchens, or temporary locations. If we approve any one or more activities noted, we will not be deemed to have given our approval or waived our right to approve or disapprove any other activities that you may later propose. We will consider the factors that we deem appropriate, which may include the period of time you have been operating the Restaurant, your sales volume, whether you have met certain quality standards and other benchmarks, and other standards that we may determine are applicable.

8.9 Use of Premises; Hours of Operation. You must use the Premises solely for the operation of the Restaurant, must keep the Restaurant open and in normal operation for the minimum hours and days specified in the Manual and as permitted by applicable laws (if you leased the Premises, subject to any restrictions of the landlord that you have provided us written notice of), and must refrain from using or permitting the use of the Premises for any other purpose or activity at any time without first obtaining our written consent.

8.10 Furnishings and Equipment. You must acquire and install in the Restaurant at your expense, such fixtures, furnishings, equipment, décor, and signs as we may reasonably direct from time to time. You must not install or permit to be installed on or about the Premises, without our prior written consent, any fixtures, furnishings, equipment, décor, signs, or other items not previously approved by us.

8.11 Menu Boards, Menus and Formats. We have the right to prescribe, and subsequently vary, one or more menu boards, menus and other formats to be utilized in the Restaurant. The menu boards, menus and formats may include requirements concerning organization, graphics, product descriptions, illustrations and other matters related to the menu. Prescribed menu boards, menus and other formats may vary depending on region, market size or other factors deemed relevant by us. If any menu board, menus and other format utilized by you ceases to be an authorized format, you will have a reasonable period of time (not to exceed ninety (90) days) to discontinue use of that format and begin using an authorized format.

8.12 Condition of Premises. You must constantly maintain the Premises and all furniture, fixtures, equipment, furnishings, floor coverings, interior and exterior signage, the building interior and exterior, interior and exterior lighting, landscaping and parking lot surfaces in first-class condition and repair in accordance with the requirements of the System, including all ongoing necessary remodeling, redecorating, refurbishing and repairs. At your own expense, you must make such additions, alterations, repairs, and replacements as may be required for that purpose (but no others without our prior written consent). Upon our request, you must provide us with copies of any inspection report conducted by a third party. You may not make any material alterations to the Restaurant that affect operations or the image of the System without our prior written approval. You acknowledge and agree that the requirements of this [Section 8.12](#) are both reasonable and necessary to ensure continued public acceptance and patronage of Modern Market Eatery Restaurants, to assist the Restaurant to compete effectively in the marketplace and to avoid deterioration or obsolescence of the operation of the Restaurant.

8.13 Access for Inspections. You must permit us and our agents to enter the Restaurant at any time during normal business hours to conduct inspections and to interview employees and guests. You must cooperate with such inspections by rendering such assistance as our representatives may reasonably request. Upon notice from us or our agents, you must immediately take such steps as may be necessary to correct any deficiencies noted during any such inspection.

8.14 Quality Assurance Program. You must comply fully with our quality assurance program. The program may include, among other things, inspections of the Restaurant, guest satisfaction surveys, mystery shopper reports, employee satisfaction and perception surveys, health and safety reviews, product and ingredient testing, and observation of food preparation areas and processes. You must pay any out-of-pocket costs that we incur to third parties to carry out quality assurance program activities at your Restaurant. At our election, we may require you to pay any such third parties directly. If you fail to achieve the minimum score prescribed in the Manual for a specific quality assurance category, we may require you and/or your employees to complete additional training at the Restaurant or a location that we designate, at your expense.

8.15 Compliance with Laws and Taxes.

8.15.1 You must operate the Restaurant in full compliance with all applicable municipal, county, state and federal laws, rules, regulations and ordinances. You have sole responsibility for compliance despite any information or advice that we may provide.

8.15.2 You, on behalf of yourself and your owners, agree to comply with and/or to assist us to the fullest extent possible in our efforts to comply with Anti-Terrorism Laws (as defined below). In connection with such compliance, you, on behalf of yourself and your owners, certify, represent, and warrant that none of your respective property or interests are “blocked” under any of the Anti-Terrorism Laws and that neither you nor any of your owners are in violation of any of the Anti-Terrorism Laws. You also agree not to knowingly hire or do business with (or continue to employ or do business with) any party who is blocked under any of the Anti-Terrorism Laws. The term “*Anti-Terrorism Laws*” means Executive Order 13224 issued by the President of the United States, as supplemented, the USA PATRIOT Act, and all other laws and regulations addressing or in any way relating to terrorist acts and/or acts of war.

8.15.3 You must promptly pay when due all taxes levied or assessed, including unemployment and sales taxes, and all accounts and other indebtedness incurred in the operation of the Restaurant. In the event of any bona fide dispute as to your liability for taxes assessed or other indebtedness, you may contest the validity or the amount of the tax or indebtedness in accordance with procedures of the taxing authority or applicable law, but in no event will you permit a tax sale or seizure by levy or execution or similar writ or warrant, or attachment by a creditor, to occur against the Restaurant.

8.15.4 You must immediately notify us in writing of the commencement of any action, suit, or proceeding and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality that may adversely affect the operation or financial condition of the Restaurant.

8.16 Health and Safety Standards. You must meet and maintain the highest health and safety standards and ratings applicable to the operation of the Restaurant, and furnish to us, within two (2) days after receipt thereof, a copy of each and every health department, or similar agency, health inspection report and fire department inspection report. You must notify us by telephone within twenty-four (24) hours and confirm in writing within two (2) days, after receiving notice of any investigation or violation concerning any zoning, health, narcotics laws, or fire department laws and regulations.

8.17 Control During Crisis Situation.

8.17.1 If an event occurs at the Restaurant that has or reasonably may cause harm or injury to guests, guests or employees (i.e., food spoilage/poisoning, food tampering/sabotage, slip and fall injuries, natural disasters, robberies, shootings, etc.) or may damage the Proprietary Marks, the System or our reputation (collectively “**Crisis Situation**”), you shall: (1) immediately contact appropriate emergency care providers to assist you in curing the harm or injury; and (2) immediately inform us by telephone of the Crisis Situation. You must refrain from making any internal or external announcements (i.e., no communication with the news media) regarding the Crisis Situation (unless otherwise directed by us or public health officials).

8.17.2 To the extent we deem appropriate, in our sole and absolute discretion, we or our designee may control the manner in which the Crisis Situation is handled by the parties, including conducting all communication with the news media, providing care for injured persons and/or temporarily closing the Restaurant. The parties acknowledge that, in directing the management of any Crisis Situation, we or our designee may engage the services of attorneys, experts, doctors, testing laboratories, public relations firms and those other professionals as we deem appropriate. You and your employees shall cooperate fully with us or our designee in our efforts and activities in this regard and shall be bound by all further Crisis Situation procedures developed by us from to time hereafter. The indemnification under Section 21.2 shall include all losses and expenses that may result from the exercise by us or our designee of the management rights granted in this Section 8.17.

8.18 Guest Issue Resolution. You must immediately resolve any guest issues regarding the quality of food or beverages, service and/or cleanliness of the Restaurant, or any similar issues. When any guest issues cannot be immediately resolved, you must use reasonable efforts to resolve the guest issues as soon as practical and shall, whenever feasible, give the guest the benefit of the doubt. If we, at our sole discretion, determine that our intervention is necessary or desirable to protect the System or the goodwill associated with the System, or if we, in our sole discretion, believe that you have failed adequately to address or resolve any guest issues, we may, without your consent, resolve any issue and charge you an amount sufficient to cover our reasonable costs and expenses in resolving the guest issues, which amount you must pay to us immediately on demand.

8.19 Managers. You must designate individuals to serve as your Operating Principal, and General Manager, or Assistant General Manager. Each Manager shall complete any training program we require to our satisfaction and satisfy any other criteria we designate in the Manual. If any Manager no longer qualifies as such, you must designate another qualified person to act as a Manager within thirty (30) days after the date the prior Manager ceases to be qualified.

8.20 Staffing.

8.20.1 You agree to maintain a competent, conscientious, trained staff in numbers sufficient to promptly service guests, including specified positions and minimum staffing levels that we may establish in the Manual. The positions and/or functions for which you will be required to maintain staff for your Restaurant could include other manager(s), shift leaders, and other team members, all of whom must be trained in compliance with Section 6 above.

8.20.2 You have sole responsibility for all employment decisions and functions of the Restaurant, including those related to hiring, firing, training, wage and hour requirements, recordkeeping, supervision, and discipline of employees, despite any information or advice we may provide. You must maintain a competent, conscientious, trained staff with enough workers to operate the Restaurant in conformance with our standards. You must take such steps as are necessary to ensure that your employees

preserve good guest relations; render competent, prompt, courteous, and knowledgeable service; and meet such minimum standards as we may establish in the Manual.

8.20.3 You must comply with all state and local laws and regulations regarding the staffing and on-premises management of personnel including any required licenses and any regulations dealing with the ratio of your staff or equipment to guests at the premises. You agree to take such steps as are necessary to ensure that your employees preserve good guest relations and comply with such dress code and cleanliness and sanitation standards as we may prescribe in the Manual, or as may be required under applicable law.

8.20.4 You and your staff must cooperate with us and with our representatives. We will have the ongoing right to approve or disapprove of the service of individuals in your Restaurant as to the role that they play in your business if their continued performance would negatively affect the System and our brand. If we disapprove of such an individual, you agree to remove him/her from their current role (but you understand and agree that our disapproval of him/her in that role is not meant to, and should not be construed as, any instruction or demand on our part that the individual should be dismissed as an employee).

8.20.5 To promote a consistent image, you agree that you and your employees will comply with such dress code or standards as we may require, which may include use of branded (or other “uniform”) apparel, and otherwise identify themselves with the Proprietary Marks at all times in the manner we specify (whether in the Manual or otherwise in writing) while working for or at the Restaurant. We may also require that you and your employees comply with personal appearance standards (including dress code, shoes, hair color, body art, piercing, sanitation and personal hygiene, foundation garments, personal displays, etc.). You agree to buy any uniforms we may require only from approved suppliers.

8.21 Numbers and Listings. You must obtain a new telephone number and on-line directory listings at your expense under the Proprietary Mark or trade name that we designate or approve (e.g. Modern Market Eatery) and not under your corporate, partnership, or individual name, to be used exclusively in connection with your operation of the Restaurant. Upon the expiration, transfer or termination of this Agreement for any reason, you shall terminate your use of such numbers and listings and assign the numbers and listings to us or our designee, and, at our option, will execute the Conditional Assignment and Power of Attorney – Telephone and On-Line Numbers and Listings attached as Exhibit D to this Agreement. You must ensure that the telephone at the Restaurant is answered in the manner we specify.

8.22 Technology.

8.22.1 You must acquire and install in the Restaurant, at your own expense, the point of sale (POS) system, back office computer, and other computer equipment, digital menu boards, communications devices, audio/visual equipment and software systems that we specify in writing from time to time. You must: (1) maintain an electronic connection between your systems and our systems and provide us with all user IDs and passwords necessary for us to independently access files and other information stored on your systems; (2) use the systems in accordance with all policies and operational procedures we issue from time to time; (3) transmit data to us at the times we specify; (4) maintain your systems in good working order at all times; (5) promptly install upgrades, additions, changes, modifications, substitutions and/or replacements of hardware, software, data connectivity, electrical power, and other computer-related facilities as we direct; (6) ensure that your employees are adequately trained in the use of such systems and our related policies and procedures; and (7) implement at all times appropriate physical and electronic security as is necessary to secure your computer system and to comply any standards and policies that we may issue (without obligation to do so) in this regard. You must not install any software to your systems that we have not authorized, including anti-virus software and firewalls. You must bear all costs of installation, operation, maintenance and upgrade of your systems. We reserve the right to require you to

engage us or a hardware maintenance and/or help desk support provider approved by us to maintain your computer and point of sale systems.

8.22.2 We have the right, but not the obligation, to develop or have developed for us, or to designate, software programs that you must use in connection with your computer and POS systems. You must install all such software, including any updates, supplements, modifications, or enhancements that we require. We and our suppliers may charge a reasonable software license fee for any software that you are required to use. Each party to this Agreement acknowledges and agrees that changes to technology are dynamic and not predictable within the term of this Agreement. In order to provide for inevitable but unpredictable changes to technological needs and opportunities, you agree that we will have the right to establish, in writing, reasonable new standards for the implementation of technology in the System; and you agree to comply with those reasonable new standards that we establish as if we periodically revised this Section 8.22 for that purpose.

8.23 Credit Cards and/or Debit Cards. You must honor all credit, charge, courtesy or cash cards or other credit devices that we specify. You must comply with the then-current Payment Card Industry Data Security Standards (PCI/DSS) as those standards may be revised by the PCI Security Standards Council, LLC (see www.pcisecuritystandards.org) or successor organization. Among other things, you agree to implement the security requirements that the PCI Security Standards Council (or its successor) requires of a merchant that accepts payment by credit and/or debit cards. You must demonstrate compliance on reasonable request, which may include having an independent third party conduct a PCI/DSS audit.

8.24 Electronic Money Programs and Loyalty Programs. You must participate in programs relating to gift cards, gift certificates, stored value cards, online or mobile coupons or credits, online or mobile ordering systems, and other electronic money programs as we may prescribe from time to time. Participation includes both issuing program benefits or credits and accepting them for payment by guests, and may require you to purchase additional equipment. We will coordinate the crediting and debiting of funds among Modern Market Eatery Restaurants based on guest purchases and redemption of stored value. You must also participate in any “frequent guest” or guest loyalty programs that we prescribe from time to time. You may not offer your own gift card, electronic money, or loyalty program for the Restaurant without our prior approval.

8.25 Pricing Activities. You agree that we may set reasonable restrictions on the maximum and minimum prices you may charge for the products and services (subject to applicable law) offered and sold at the Restaurant. With respect to the sale of all such products and services, you will have sole discretion as to the prices to be charged to guests; provided, however, that we will have the right to set maximum or minimum prices on such items (subject to applicable law), to promote inter-brand competition. If we impose a maximum price on a particular item, then (subject to applicable law) you may charge any price for that item, up to and including the maximum price we have set. If we impose a minimum price on a particular item, then you may charge any price for that item (subject to applicable law), down to and including the minimum price that we have set.

8.26 Compliance with Lease. If you occupy the Premises under a lease, you must comply with all terms of the lease or sublease for the Premises and all other agreements affecting the operation of the Restaurant. You must undertake best efforts to maintain a good working relationship with your landlord and must refrain from any activity which may jeopardize your right to remain in possession of, or to renew the lease for, the Premises.

8.27 Franchisee Advisory Committee. We reserve the right to create a franchisee advisory committee (“*FAC*”). You will be required to participate in any communication programs developed by the FAC. You must participate, at your sole cost, in the FAC if you or one of your owners or employees is elected or appointed as a committee member. You may be required to pay a fee for, or contribute to, the FAC in an amount determined by the FAC.

9. MODIFICATIONS TO THE SYSTEM

9.1 System Changes. We, in our sole discretion, shall be entitled from time to time to change or modify the System, including modifications to the Manual, the menu and menu formats, the required equipment, the signage, the building and premises of Modern Market Eatery Restaurants (including the trade dress, décor and color schemes), the presentation of the Proprietary Marks, the adoption of new administrative forms and methods of reporting and of payment of any monies owed to us (including electronic means of reporting and payment) and the adoption and use of new or modified Proprietary Marks or Works. You must accept and use or display in the Restaurant any such changes or modifications in the System as if they were a part of the System at the time this Agreement was executed, and you will make such expenditures as the changes or modifications in the System may reasonably require.

9.2 Menu Items. Within thirty (30) days after receipt of written notice from us, you must begin selling any newly authorized menu items and cease selling any menu items that are no longer authorized. All food, beverage and merchandise items authorized for sale at the Restaurant shall be offered for sale under the specific name designated by us. We, in our sole discretion, may restrict sales of menu items to certain time periods during the day. If you have a suggestion for a new menu item or for a change to an authorized menu item or you desire to participate in a test market program, you must provide us written notice prior to implementation. You may not add or modify any menu item or participate in a test market program without first having obtained our prior written approval. You must purchase any additional equipment and smallwares as we deem reasonably necessary in connection with new menu items. If we require you to begin offering a new menu item which requires the purchase of additional equipment, we will provide you with a reasonable period of time, as determined in our sole discretion, for the financing, purchase and installation of any such equipment before you must offer such new menu items for sale at the Restaurant.

9.3 Major Renovation of Restaurant. You must make extensive structural changes, major remodeling and renovations, and substantial modifications to existing equipment and improvements to modernize and conform the Restaurant to the image of the System for new Modern Market Eatery Restaurants at our written request (but not more often than once during the Initial Term which we anticipate will be approximately 5 years after the Opening Date); provided that the cost of the such renovation / remodel work will not exceed \$200,000. You must prepare and complete, at your cost, drawings and plans for the required renovation / remodel at the Restaurant, which must be submitted to us for approval prior to the commencement of work. You must complete the required renovation / remodel work by no later than five (5) months after the date that you receive our written notice under this Section.

9.4 Innovations. All products, menu items, services, concepts, methods, techniques, and/or new information relevant to your operation of the Restaurant (together, “*Innovations*”), whether or not constituting protectable intellectual property, that you or your employees create, or that are created on your behalf, must be promptly disclosed to us. All such Innovations will be deemed to be our sole and exclusive property and works made-for-hire for us. You and each of your owners agree to: (1) sign the assignment and/or other documents we request in order to implement this clause in order to evidence our ownership; (2) cause your employees and contractors to sign such assignment documents as we may request for this purpose; and (3) assist us in securing intellectual property rights in such Innovations.

9.5 Variances. We have the right, in our sole discretion, to waive, defer or permit variations from the standards of the System or any applicable agreement for any franchisee or prospective franchisee based on the peculiarities of a particular site, existing building configuration or circumstance, density of population, business potential, trade area population or any other condition or circumstance. We have the right, in our sole discretion, to deny any such request we believe would not be in the best interests of the System.

10. MARKETING

10.1 Marketing Programs. You acknowledge the value of and the need to develop, enhance, and promote the System and the Proprietary Marks. You also acknowledge the importance of the standardization of marketing programs to the furtherance of the goodwill and public image of the System and the Proprietary Marks. This Section 10 describes our marketing, public relations and advertising programs, our right to modify these programs, and the manner in which the marketing and advertising funds are used from time to time.

10.2 Grand Opening Marketing.

10.2.1 You must advertise and promote the Restaurant for a ninety (90) day period beginning thirty (30) days prior to opening through sixty (60) days following the opening of the Restaurant (“**Grand Opening Marketing Period**”). You will develop a marketing plan for the Grand Opening Marketing Period (“**Grand Opening Marketing Plan**”) and marketing materials for the Restaurant (“**Grand Opening Marketing Materials**”). We must review and approve in writing the Grand Opening Marketing Plan and the Grand Opening Marketing Materials for the Restaurant, including total expenditures. The Grand Opening Plan must include a “Friends and Family Day” where you invite various individuals to dine at the Restaurant.

10.2.2 You must spend at least Fifteen Thousand Dollars (\$15,000) during the Grand Opening Marketing Period. You may spend more than the required amount. If you fail to spend the required amount during the Grand Opening Marketing Period, you must spend the balance for Local Advertising Requirement as defined in Section 10.4. At our request, you must submit appropriate documentation to verify full compliance with your expenditure obligation under the Grand Opening Marketing Plan.

10.3 Brand Fund.

10.3.1 We administer a Brand Fund for the enhancement, promotion and protection of the System and the Proprietary Marks, and for the development of advertising, marketing, and public relations programs and materials as we deem appropriate. We have the right to direct all advertising, media placement, marketing and public relations programs and activities financed by the Brand Fund, with final discretion over the strategic direction, creative concepts, materials and endorsements used and the geographic, market and media placement and allocation. You agree to participate in all advertising, marketing, promotions, research and public relations programs instituted by the Brand Fund.

10.3.2 Currently, we require you to contribute one percent (1.0%) of the Gross Sales of the Restaurant to the Brand Fund. We may increase your Brand Fund Contribution to a maximum of three percent (3%) of Gross Sales upon thirty (30) days’ notice. The Brand Fund Contribution will be payable at the same time and in the same manner as your payment of the Royalty Fee. From time to time, we or our suppliers may deposit into the Brand Fund any rebates or similar allowances paid to us by our suppliers although we have no obligation to do so. Modern Market Eatery Restaurants operated by us and our affiliates will contribute to the Brand Fund on the same basis as comparable franchisees.

10.3.3 Among the programs, concepts, and expenditures for which we may utilize the Brand Fund monies are: (1) creative development and production of print ads, commercials, radio spots, point of purchase materials, direct mail pieces, apps and social media or similar promotions, door hangers, free standing inserts, brochures, logo wear, labeling, video, audio, and written materials and electronic media, and other advertising and promotional materials; (2) media placement and buying, including all associated expenses and fees; (3) administering regional and multi-regional marketing and advertising programs; (4) the creative development of, and actual production associated with, premium items, giveaways, promotions, sweepstakes, contests, public relation events, and charitable or nonprofit events; (5) creative development of signage, posters, and individual Modern Market Eatery restaurant décor items including wall graphics; (6) recognition and awards events and programs including periodic national and regional conventions and meetings; (7) design, establishment, and maintenance of websites, extranets, intranets, search rankings, social media profiles, mobile application and other digital marketing; (8) retention and payment of personalities engaged as spokespersons, advertising and promotional agencies, endorsement contracts, and other outside advisors including retainer and management fees; (9) sponsorship of sporting, charitable, or similar events; (10) review of locally produced marketing materials; (11) list acquisition and development; (12) association dues; (13) affinity program development; (14) development of third party facilities for the development of local advertising; and (15) public relations and community involvement activities and programs.

10.3.4 We may sell certain advertising materials, merchandise and premium items to you that are developed by the Brand Fund, and the earnings from such sales will be deposited in the Brand Fund. The Brand Fund also may be used to pay reasonable salaries and expenses of our and our affiliates' employees who work on advertising, marketing, public relations materials, programs, activities or promotions prepared, planned or undertaken on behalf of the Brand Fund and professional fees and administrative costs and overhead that we or our affiliates incur in activities reasonably related to the administration and activities of the Brand Fund (including accounting fees, legal fees, and interest on monies borrowed by the Brand Fund). We will not use the Brand Fund for anything whose sole purpose is the marketing of franchises, however, the System website, public relations activities, community involvement activities and other activities supported by the Brand Fund may contain information about franchising opportunities. We may seek (but have no obligation to seek) the advice from franchisees by formal or informal means with respect to the creative concepts and media used for programs financed by the Brand Fund.

10.3.5 You acknowledge that the Brand Fund and any earnings thereon will be used to maximize general public recognition, acceptance, and patronage of Modern Market Eatery Restaurants, and that we are not obligated, in administering the Brand Fund, to make expenditures for you which are equivalent or proportional to your contribution, or to ensure that any particular franchisee benefits directly or pro rata from expenditures by the Brand Fund. Your failure to derive any such benefit will not serve as a basis for a reduction or elimination of your obligation to contribute to the Brand Fund. The failure (whether with or without our permission) of any other franchisee to make the appropriate amount of contributions to the Brand Fund will not release you from or reduce your obligation.

10.3.6 Nothing in this Agreement will be construed to create a trust or fiduciary relationship of any kind or nature whatsoever among the parties as it relates to the Brand Fund or our actions with respect thereto, including collection of payments, maintenance of the bank account, bookkeeping, and disbursement of monies from the Brand Fund. Except as expressly provided in this Section 10, we assume no direct or indirect liability or obligation to you with respect to maintenance, direction, or administration of the Brand Fund. The Brand Fund may spend in any fiscal year more or less than the total Brand Fund Contributions in that year, borrow from us or others (paying reasonable interest) to cover deficits, or invest any surplus for future use. We will prepare an annual, unaudited statement of Brand Fund collections and expenses within ninety (90) days after our fiscal year end and will provide a copy of the statement to all

franchisees. We retain the final authority on all programs financed by the Brand Fund. We have the right to change or dissolve the Brand Fund at any time. If we disband the Brand Fund, we will spend all monies in the fund for advertising and/or promotional purposes or distribute all unspent monies to contributors in proportion to their respective Brand Fund Contributions during the preceding twelve (12) month period.

10.4 Local Advertising Requirement.

10.4.1 We may require you to develop, on an annual basis, a Marketing Plan (which may be included with your Business Plan) that we have approved for your Restaurant. You must comply with all requirements regarding the Marketing Plan, including the use of approved advertising and marketing materials, placement and purchase of advertising and marketing materials and media, search engine optimization activities, and compliance with all promotional recommendations. If we require you to conduct such local advertising and marketing in your market area ("**Local Advertising Requirement**"), we may require you to spend up to an amount we determine (which is currently at least one percent (1.0%) of Gross Sales). Within 30 days after the end of each quarter, you agree to send to us, in the manner we prescribe, if requested, an accounting of your Local Advertising Requirement expenditures during the preceding year. If you fail to expend on an annual basis, the required amount, then you must contribute to the Brand Fund any amounts that you should have expended to reach the local advertising requirement within thirty (30) days after the close of our fiscal year. Upon written notice to you, we have the right to collect the amount that you must spend for the Local Advertising Requirement and spend it on your behalf.

10.4.2 Local Advertising Requirement expenditures may include any pre-approved expenditures we designate in the Manual. All Local Advertising Requirement must be approved by us pursuant to Section 10.6 below.

10.5 Joint Marketing Programs and Cooperatives. We, in our sole discretion, have the right at any time and from time to time to establish, and thereafter modify (1) co-marketing programs in which we and our franchisees join with suppliers or other third parties to cross-promote goods and services; (2) joint marketing efforts in which multiple Modern Market Eatery Restaurants can contribute to a specific advertising campaign or event; and/or (3) local or regional marketing co-operatives ("**Cooperatives**") that pool funds of Modern Market Eatery Restaurants on an ongoing basis to jointly promote the Proprietary Marks and the Modern Market Eatery Restaurants of the Cooperative members. If established, you must participate in each program and comply with the rules of the program. The following provisions apply to Cooperatives:

10.5.1 We have the right to designate any geographic area or set of common characteristics for purposes of establishing a Cooperative. If a Cooperative is applicable to your Restaurant at the time the Restaurant opens for business, you must join the Cooperative. If a Cooperative applicable to the Restaurant is established during the Initial Term, you must become a member and begin contributing no later than thirty (30) days after we authorize the Cooperative to begin operation. You will not have to contribute to more than one Cooperative for the same Restaurant at the same time. We (or our affiliates, as the case may be) will become a member of any Cooperative that is applicable to a Modern Market Eatery restaurant owned by us or our affiliates.

10.5.2 Each Cooperative will be organized for the exclusive purpose of developing, administering and executing advertising programs for the members of the Cooperative. Each Cooperative will adopt a Cooperative agreement governing the organization and operation of the Cooperative, subject to our approval. If the members of the Cooperative do not sign an agreement within a reasonable time, you agree to sign our recommended form of Cooperative Agreement. We reserve the right to change the form of organization, governing documents, and manner of operation of any Cooperative, and you and the other members agree to implement any such change promptly after notice from us. No changes in the bylaws or

other governing documents of a Cooperative may be made without our prior written consent. No advertising or promotional plans or materials may be used by a Cooperative or furnished to its members without our prior approval pursuant to Section 10.6 below. We and our designated agents will have the right to examine and copy, at our expense, on reasonable notice and during normal business hours, the books, records, and accounts of any Cooperative. We will also have the right, at any time, to have an independent audit made of the books of any Cooperative.

10.5.3 You understand that this contribution has no impact on any fees or amounts to be expended under Section 10.

10.5.4 We may grant to any franchisee an exemption for any length of time from the requirement of membership in a Cooperative and/or from the obligation to contribute (including a reduction, deferral, or waiver of the contribution), upon written request of the franchisee stating reasons which we deem sufficient to support the exemption. Our decision concerning any request for exemption will be final. If an exemption is granted to a franchisee, the franchisee will be required to spend on Local Advertising Requirement the amount the franchisee otherwise would have been required to contribute to the Cooperative.

10.6 Approval Requirement. All advertising and promotion by you and by any Cooperative must be in the type of media and format that we approve, must be conducted in a dignified manner, and must conform to our standards and requirements. You or the Cooperative must submit written samples of all proposed advertising and promotional plans and materials to us for our approval at least fifteen (15) days before their intended use, unless the plans and materials were prepared by us or have been approved by us within the last twelve (12) months. Proposed advertising plans or materials will be deemed to have been rejected if we have not approved them within fifteen (15) days after receipt. We reserve the right to require you to discontinue the use of any advertising or marketing material that we previously approved upon notice.

10.7 Special Promotions.

10.7.1 You must participate, at your expense, in product promotions, product launches and price point promotions that we establish from time to time, provided such promotions do not violate applicable law. You acknowledge that these activities may include value menu, special offer, limited time offer, coupons, and other pricing promotions and that the featured price(s) may be less than your cost for the promotional item(s). You are required to obtain our prior written approval before implementing such a program that we have not mandated or provided. You shall fully participate in all programs, public relations campaigns, prize contests, special offers, and other programs, national, regional, or local in nature (including the introduction of new products or other marketing programs directed or approved by us) that are prescribed by us. You must conspicuously display for guests the promotional signs and materials and otherwise participate in the manner we specify. You shall be responsible for the costs of such participation, which may include a commitment by you to purchase specified quantities of inventory and supplies to support these programs. To the extent permitted by law, you will comply with any price restrictions that we promulgate.

10.7.2 We may also require you to join and participate in regional, national, or international programs designed to increase business, including multi-area guest, national guest, commercial guest, Internet, event, yellow pages, directory affinity vendor, and co-branding programs ("**Multi-Area Marketing Programs**"). Such programs may require your cooperation (including refraining from certain channels of marketing and distribution), participation (including payment of commissions or referral fees), and adherence to pricing restrictions to the extent permitted by law. All such programs are our proprietary trade secrets. We may designate the coverage area, method and timing of payment, and any

outside agencies for any Multi-Area Marketing Programs.

10.8 Electronic Marketing and Electronic Communications. We will host and maintain an independent location webpage for the Restaurant at an Internet address that we specify. We will provide and maintain this webpage using a standard template. You may not use, register, maintain, or sponsor any URL, social networking platform, blog, messaging system, email account, user name, text address, mobile application, or other electronic, mobile or internet presence that uses or displays any of the Proprietary Marks (or any derivative thereof) or that promotes any products or services of the Restaurant. You acknowledge that the use of any electronic medium constitutes advertising and promotion subject to our approval under Section 10.6. You agree not to transmit, or cause any other party to transmit, advertisements or solicitations by broadcast media, telephone, e-mail, text message, instant message, social network, VOIP, streaming media, or other electronic media that currently exists or may exist in the future without first obtaining our written consent as to: (1) the content of the advertisements or solicitations; and (2) the type of media intended to be used. All telephone answering messages, email auto-signatures, and other identifiers of the Restaurant must be in the form we prescribe. If we approve the use of an electronic medium, our approval will be conditioned on your compliance with any standards and procedures we issue with respect to that type of electronic medium, including the use of any disclaimers, warnings, and other statements that we may prescribe.

10.8.1 You shall comply with our standards for the System, as set forth in the Manual or otherwise, with regard to our authorization to use, and the use of, blogs, common social networks (including Facebook, Instagram and Pinterest), professional networks (including LinkedIn), live blogging tools (including Twitter), virtual worlds, file, audio and video sharing sites and other similar social networking media or tools that in any way reference the Proprietary Marks or involve the System or the Restaurant. You must permit us to review and provide us with passwords and access rights to any electronic marketing you use for your Restaurant.

11. INSURANCE

11.1 Basic Requirements. You must, at your own expense, maintain the types and minimum amounts of insurance coverage specified in the Manual. The policy, or policies, must be written by insurance companies with an industry rating acceptable to us; must name us, our affiliates, and their respective officers, directors, shareholders, consultants, agents, attorneys, and employees as additional insureds as specified by us; and must not have deductibles, exclusions or co-insurance requirements that are unacceptable to us. You must provide us with evidence of all required insurance coverage and payment of premiums before beginning construction of the Restaurant. At least thirty (30) days before each insurance policy expires, you must furnish a copy of the renewal or replacement insurance policy and evidence of payment of the premium. The policy must state that we will be notified by the insurance company if the policy is terminated, canceled or expires. Your obligation to obtain insurance coverage is not limited in any way by the insurance that we maintain.

11.2 Our Rights. We have the right to increase the amounts of coverage required and require different or additional kinds of insurance with thirty (30) days' prior written notice, including excess liability insurance, to reflect inflation, new risks, changes in the law or standards of liability, higher damage awards or other relevant changes in circumstances. All public liability and property damage policies must contain a waiver by the insurance company of subrogation rights against us and our affiliates, successors and assigns. If you fail to maintain the insurance required by this Agreement, we have the right (but no obligation) to obtain insurance on your behalf. If we do so, you agree to reimburse us for the cost of insurance, plus all out of pocket expenses that we incurred in obtaining such insurance on your behalf.

12. ACCOUNTING AND RECORDS

12.1 Books and Records. You must prepare, and must preserve for at least five (5) years from the dates of their preparation, complete and accurate books, records, and accounts, in accordance with generally accepted accounting principles, which may include a prescribed chart of accounts and/or use of a designated accounting program or platform. You must record all sales, sales tax, and any other charges collected on behalf of third parties in accordance with the procedures prescribed in the Manual on the point of sale system that we specify. If we require, all reports and records must be prepared using the standard chart of accounts or other features stated in the Manual.

12.2 Reports. You must submit to us, at your expense, in the form we prescribe:

12.2.1 Within ten (10) days after the end of each month, a statement of operating performance of the Restaurant including total revenue, total sales per day part, and other revenue and information as specified in the Manual;

12.2.2 Within thirty (30) days after the end of each of your fiscal quarters, interim unaudited income statements and balance sheets;

12.2.3 Within ninety (90) days after the end of each of your fiscal years, an income statement showing the results of your operations during such fiscal year and a balance sheet as of the end of such fiscal year, both of which must be prepared in accordance with generally accepted accounting principles and reviewed by an independent certified public accountant. If, however, the foregoing income statements and balance sheets are audited by an independent certified public accountant, then you must furnish the audited income statements and balance sheets rather than the reviewed income statements and balance sheets; and

12.2.4 Within fifteen (15) days after filing, a copy of the federal or other tax return for the Restaurant.

12.3 Extranet and Email. We have the right (but no obligation) to establish a secure website for our Modern Market Eatery franchisees and to require you to use the extranet for reporting, training, or other purposes as we direct. We may also require our Modern Market Eatery franchisees to use email addresses we designate. We may charge a reasonable user fee to support the costs of establishing and maintaining the extranet or email addresses.

12.4 Right to Examine or Audit. We and our designated agents will have the right to examine and copy, at our expense, on reasonable notice and during normal business hours, your books, records, accounts, and sales tax returns. We will also have the right, at any time, to have an independent audit made of your books. The audits can be at any location we designate. If an inspection or audit reveals that any payment to us has been understated, you must immediately pay to us the amount owed, together with applicable interest and late fees as provided in Section 4. If an inspection or audit reveals an understatement of the Gross Sales of the Restaurant of two percent (2%) or more, you must, in addition to the payment of all monies owed with interest, reimburse us for all costs connected with the inspection or audit (including expenses for travel, lodging and wages, and reasonable accounting and legal costs). If our examination reveals an understatement of the Gross Sales of the Restaurant for any period by two percent (2%) or more three (3) or more times during any thirty-six (36) month period, or by more than five percent (5%) on any one occasion, then in addition to your obligations to pay the amounts owed as referenced above, we may immediately terminate this Agreement. The foregoing remedies are in addition to any other remedies we may have.

12.5 Data and Privacy.

12.5.1 We may periodically specify in the Manual or otherwise in writing the information that you will collect and maintain on your computer and point of sale systems and you will provide to us such reports as we may reasonably request from the data so collected and maintained. You agree that all data that you collect from guests in connection with the Restaurant including names, addresses, email addresses, phone numbers, birth dates, transaction data, demographic data, behavioral data, guest service history, correspondence and other data (“Guest Data”) and all other data that you create and/or collect in connection with the System, or in connection with your operation of your Restaurant (including transaction data) is and will be owned exclusively by us. Copies and/or originals of such data must be provided to us upon our request. We hereby license use of such data back to you, at no additional cost, solely for the term of this Agreement and solely for your use in connection with the business franchised under this Agreement. You agree not to publish, disseminate, implement, revise, or rescind a data privacy policy without our prior written consent with respect to such policy.

12.5.2 In connection with any use of data in the Restaurant, you agree to comply with all applicable laws pertaining to the privacy of guest, employee, and transactional information (“Privacy Laws”). You also agree to comply with our standards and policies pertaining to Privacy Laws. If there is a conflict between our standards and policies pertaining to Privacy Laws and actual applicable law, you will: (1) comply with the requirements of applicable law; (2) immediately give us written notice of said conflict; and (3) promptly and fully cooperate with us and our counsel in determining the most effective way, if any, to meet our standards and policies pertaining to Privacy Laws within the bounds of applicable law.

12.6 Public Filings. If you are or become a publicly-held entity in accordance with other provisions of this Agreement, you must send to us copies of all reports (including responses to comment letters) or schedules that you may file with the U.S. Securities and Exchange Commission (certified by your chief executive officer to be true, correct, complete and accurate) and copies of any press releases you may issue within three (3) days of the filing of those reports or schedules or the issuance of those releases. If you request information from us to compile your reports, you must reimburse us for our costs and expenses in preparing such reports.

13. **PROPRIETARY MARKS AND THE WORKS**

13.1 Our Representations. We represent to you that we and our affiliates own (or have an appropriate license to) all right, title, and interest in and to the Proprietary Marks, and that we have taken (and will take) all steps reasonably necessary to preserve and protect the ownership and validity in, and of, the Proprietary Marks.

13.2 Identification of the Restaurant. You must operate, advertise, and promote the Restaurant only under the Proprietary Marks. In conjunction with any use of the Proprietary Marks, you must identify yourself to the public as an independent franchisee operating under the authority of this Agreement.

13.3 Proprietary Materials. You acknowledge and agree that we and/or our affiliates are the owners of the Works and that the copyrights in the Works are valuable property. We authorize you to use the Works on the condition that you comply with all of the terms and conditions of this Section 13.3. You acknowledge and agree that we may create, acquire or obtain licenses for certain additional copyrights in various works of authorship used in connection with the operation of a Modern Market Eatery restaurant, including all categories of works eligible for protection under the United States copyright law, all of which will be deemed to be part of the Works. The Works include the Manual, advertisements, promotional materials, labels, menus, posters, coupons, gift certificates, signs, World Wide Web and other Internet sites, and store designs, plans and specifications. The Works may incorporate all or part of the Proprietary Marks

or other trade dress used as part of the System. You acknowledge that this Agreement does not confer any interest in the Works on you, other than the right to use the Works in the operation of the Restaurant in compliance with the terms of this Agreement. If you prepare any adaptation, translation or work derived from the Works, including advertisements, promotional materials, labels, menus, posters, or websites, whether or not such adaptation was authorized by us, you agree that such material will be our property and you hereby assign all your right, title and interest therein to us (or to a third party designated by us). You agree to execute any documents, in recordable form, which we deem necessary to reflect or perfect such ownership. You must submit all such adaptation, translation or derivative works to us for approval prior to use.

13.3.1 Limitations on Use. Your right to use the Proprietary Marks and the Works is limited to the uses we authorize under this Agreement and any unauthorized use will constitute an infringement of our rights. Therefore, you agree to:

13.3.2 Use only the Proprietary Marks and the Works that we designate and use them only in the manner we authorize;

13.3.3 Use the Proprietary Marks and Works only for the operation of the Restaurant and only at the Premises or in advertising for the Restaurant;

13.3.4 Operate and advertise the Restaurant only under the name “Modern Market Eatery” and use all Proprietary Marks without prefix or suffix;

13.3.5 Refrain from using the Proprietary Marks as part of your corporate or legal name;

13.3.6 Ensure that all advertising and promotional materials, packaging, signs, decorations, websites, and other items that we may specify, bear the Proprietary Marks in the form, color, size, and location we prescribe;

13.3.7 Identify yourself as the owner of the Restaurant in conjunction with any use of the Proprietary Marks, including on invoices, order forms, receipts, check stock, business stationery, websites, email auto-signatures, and other electronic media, as well as at such conspicuous locations on the Premises as we may designate in writing;

13.3.8 Not use the Proprietary Marks to incur any obligation or indebtedness on behalf of us or our affiliates;

13.3.9 Not use the Proprietary Marks on any human resources materials including policies, forms, pay checks, and manuals;

13.3.10 Comply with our instructions in filing and maintaining any requisite trade name or fictitious name registrations, and execute any documents we deem necessary to obtain protection for the Proprietary Marks and the Works or to maintain their continued validity and enforceability;

13.3.11 Not directly or indirectly contest the validity of, or take any other action which tends to jeopardize our or our affiliates’ rights to the ownership of or right to use and to license others to use the Proprietary Marks or the Works; and

13.3.12 Ensure that the Proprietary Marks and the Works bear the “®”, “TM”, “SM” or © notice, respectively, as we may prescribe from time to time.

13.4 Acknowledgments. You acknowledge that: (1) The Proprietary Marks and the Works are valid and serve to identify the System and those who are authorized to operate under the System; (2) Your use of the Proprietary Marks and Works pursuant to this Agreement does not give you any ownership interest or other interest in the Proprietary Marks or the Works; (3) Any and all goodwill arising from your use of the Proprietary Marks and the Works will inure exclusively to our benefit and to the benefit of our affiliates, and upon expiration or termination of this Agreement, no monetary amount will be assigned as attributable to any goodwill associated with your use of the System, the Proprietary Marks, or the Works; and (4) The license granted under this Agreement to use the Proprietary Marks and the Works is nonexclusive.

13.5 Changes to the Proprietary Marks and the Works. We reserve the right to modify or require you to discontinue use of any of the Proprietary Marks or the Works and/or to substitute different service marks, trademarks or copyrighted material for use in identifying the System and the restaurants operating under the System. When required by us, you must promptly discontinue use of designated Proprietary Marks or Works or implement any modification or substitution at your own cost and expense. We will have no obligation or liability to you as a result of such modification or substitution.

13.6 Third Party Challenges. You must promptly notify us of any unauthorized use or reproduction of the Proprietary Marks or the Works, any challenge to the validity of the Proprietary Marks or the Works, the ownership by us and our affiliates of the Proprietary Marks and the Works, our right to use and to license others to use the Proprietary Marks and the Works, or your right to use the Proprietary Marks or Works. You acknowledge that we and our affiliates have the right to direct and control any administrative proceeding or litigation involving the Proprietary Marks or Works, including any settlement thereof. We and our affiliates have the right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Marks or Works. We will defend you against any third-party claim that your use of the Proprietary Marks or the Works infringes the rights of the third party. We will bear the cost of defense (including the cost of any judgment or settlement) if you have used the Proprietary Marks and the Works in accordance with the terms of this Agreement, but otherwise you must bear the cost of the defense (including the cost of any judgment or settlement). You must execute any and all documents and do such acts as we deem necessary to carry out the defense or prosecution of any litigation involving the Proprietary Marks or the Works, including becoming a nominal party to any legal action.

14. YOUR ORGANIZATION AND MANAGEMENT

14.1 Your Organization

14.1.1 If you are a legal entity, you make the following representations and warranties: (1) you are duly organized and validly existing under the laws of the state of your formation; (2) you are qualified to do business in the state in which the Restaurant is located; (3) execution of this Agreement and the development and operation of the Restaurant is permitted by your governing documents; and (4) unless waived in writing by us, your Articles of Incorporation, Articles of Organization or written partnership agreement shall at all times provide that your activities are limited exclusively to the development and operation of Modern Market Eatery Restaurants.

14.1.2 If you are an individual, or a partnership comprised solely of individuals, you make the following additional representations and warranties: (1) each individual has executed this Agreement; (2) each individual shall be jointly and severally bound by, and personally liable for the timely and complete performance and a breach of, each and every provision of this Agreement; and (3) notwithstanding any transfer to a business entity, each individual shall continue to be jointly and severally bound by, and personally liable for the timely and complete performance and breach of, each and every provision of this

Agreement.

14.2 Ownership Interests and Control Group. If you are a business entity, all interests in you are owned as set forth in attached Exhibit B. You must comply with Section 16 prior to any change in ownership interests and must sign addenda to Exhibit B as changes occur in order to ensure the information contained in Exhibit B is true, accurate and complete at all times. Exhibit B also lists those persons who comprise your “**Control Group**.” The parties acknowledge and agree that it is their intent that the members of the Control Group include the Operating Principal and: (1) all holders of a legal or beneficial interest of ten percent (10%) or more (“**10% Owners**”) in your entity; (2) if you are a limited partnership, all 10% Owners of your general partner; and (3) all 10% Owners of a corporation or limited liability company that owns a controlling interest in your entity. In the event of any change in the Control Group or in the ownership interests of any member of the Control Group, you must sign addenda to Exhibit B to reflect the change. If you are a corporation, the Control Group shall at all times own at least fifty-one percent (51%) of your voting securities; if you are a limited liability company, the Control Group shall at all times own at least fifty-one percent (51%) of your membership interests; and if you are any other type of business entity, the Control Group shall at all times have at least a fifty-one percent (51%) interest in the operating profits and losses and hold at least fifty-one percent (51%) of your ownership interests.

14.3 Governing Documents. Upon request by us, you shall promptly deliver to us, as applicable, true and complete copies of the articles or certificate of incorporation, partnership agreement, bylaws, subscription agreements, buy-sell agreements, voting trust agreements and all other documents relating to your ownership, organization, capitalization, management and control and all amendments thereto. When any of these governing documents are modified or changed, you promptly shall provide copies to us. If you are a corporation, you shall maintain stop-transfer instructions against the transfer on the records of any voting securities, and each stock certificate of the corporation shall have conspicuously endorsed upon its face the following statement: “Any assignment or transfer of this stock is subject to the restrictions imposed on assignment by the Modern Market Eatery Franchise Agreement(s) to which the corporation is a party.” If you are a publicly held corporation, these requirements shall apply only to the stock owned by your Control Group. If you are a limited liability company, each membership or management certificate shall have conspicuously endorsed upon its face the following statement: “Any assignment or transfer of an interest in this limited liability company is subject to the restrictions imposed on assignment by the Modern Market Eatery Franchise Agreement(s) to which the limited liability company is a party.” If you are a partnership, your written partnership agreement shall provide that ownership of an interest in the partnership is held, and that further assignment or transfer thereof, is subject to all restrictions imposed on assignment by this Agreement.

14.4 Guarantee of Performance.

14.4.1 All members of the Control Group and your 10% Owners shall jointly and severally personally guarantee your payment and performance under this Agreement and personally bind themselves to the terms of this Agreement pursuant to the attached Guarantee, Indemnification and Acknowledgement (“**Guarantee**”). Unless you are a publicly-held entity, all of your officers, directors, and limited liability company managers, also shall jointly and severally guarantee your payment and performance under this Agreement and bind themselves to the terms of this Agreement pursuant to the attached Guarantee.

14.4.2 With respect to your owners, you acknowledge that, unless otherwise agreed to in writing by us, it is our intent to have individuals (and not corporations, limited liability companies or other entities) sign the Guarantee. Accordingly, if any owner is not an individual, we shall have the right to require individuals who have only an indirect ownership interest in you to sign the Guarantee.

14.5 Operating Principal and Other Management Personnel. Unless waived by us, you must designate an Owners who is acceptable to us as your Operating Principal. (The Operating Principal can also be the development principal if you have signed a development agreement with us.) The Operating Principal who must be substantially involved to the day-to-day operation of the Restaurant. We will communicate with the Operating Principal, whom must have the authority to bind you with respect to all financial, operational and legal matters related to the Restaurant and this Agreement. You must designate a replacement approved by us within thirty (30) days after your Operating Principal ceases to qualify as the Operating Principal. You must also designate a General Manager or Assistant General Manager (neither are required to have any ownership interest in you or the franchise); these individuals will be responsible to for the operation of the Restaurant when the Operating Principal is not on site. The General Manager or Assistant General Manager may cover multiple restaurants.

15. COVENANTS

15.1 Confidentiality.

15.1.1 You acknowledge and agree that: (1) we own all right, title and interest in and to the System; (2) the System includes trade secrets and confidential and proprietary information and know-how that gives us a competitive advantage; (3) we have taken all measures appropriate to protect the trade secrets and the confidentiality of the proprietary information and know-how of the System; (4) all material or other information now or hereafter provided or disclosed to you regarding the System is disclosed in confidence; (5) you have no right to disclose any part of the System to anyone who is not your employee; (6) you will disclose to your employees only those parts of the System that an employee needs to know; (7) you will have a system in place to ensure that your employees keep confidential our trade secrets and confidential and proprietary information, and, if requested by us, you shall obtain from those of your employees designated by us an executed confidentiality and non-disclosure agreement in the form prescribed by us; (8) by entering into this Agreement, you do not acquire any ownership interest in the System; and (9) your use or duplication of the System or any part of the System in any other business, or disclosure of any part of the System to others for use or duplication in any other business, would constitute an unfair method of competition, for which we would be entitled to all legal and equitable remedies, including injunctive relief, without posting a bond.

15.1.2 You shall not, during the term of this Agreement or at any time thereafter, communicate or disclose any trade secrets or confidential or proprietary information or know-how of the System to any unauthorized person, or do or perform, directly or indirectly, any other acts injurious or prejudicial to any of the Proprietary Marks or the System. Any and all information, knowledge, know-how and techniques, including all drawings, materials, equipment, specifications, recipes, techniques and other data that we or our affiliates designate as confidential shall be deemed confidential for purposes of this Agreement.

15.2 Restrictions On Competition.

15.2.1 You acknowledge and agree that: (1) pursuant to this Agreement, you will have access to valuable trade secrets, specialized training and other confidential information from us and/or our affiliates regarding the development, operation, product preparation and sale, market and operations research, advertising and marketing plans and strategies, purchasing, sales and marketing methods and techniques owned by us and our affiliates; (2) the know-how regarding the System and the opportunities, associations and experience acquired by you pursuant to this Agreement are of substantial value; (3) in developing the System, we and our affiliates have made substantial investments of time, effort, and money; (4) we would be unable adequately to protect the System and its trade secrets and confidential and proprietary information against unauthorized use or disclosure and would be unable adequately to

encourage a free exchange of ideas and information among operators of Modern Market Eatery Restaurants if franchisees were permitted to engage in the activities described in this Section 15.2 or to hold interests in the businesses described in this Section 15.2; and (5) the restrictions on your right to hold interests in, or perform services for, the businesses described in this Section 15.2 will not unduly limit your activities.

15.2.2 You covenant and agree that, except as we otherwise approve in writing, during the term of this Agreement, and for a continuous period of two (2) years following the expiration, transfer or termination of this Agreement, you will not, either directly or indirectly, for yourself or through, on behalf of, or in conjunction with any person or legal entity:

15.2.2.1 Own, maintain, operate, engage in, grant a franchise to, advise, help, make loans to, lease property to, or have any interest in, either directly or indirectly, any “**Competing Business**”, which is defined as a restaurant business: (1) that has freshly prepared menu items as a primary menu item (i.e., sales that comprise at least twenty percent (20%) of business’s sales) or that offers any individual menu item that comprises at least twenty percent (20%) of sales at Modern Market Eatery Restaurants; or (2) whose method of operation or trade dress is similar to that employed in the System. During the term of this Agreement, there is no geographical limitation on this restriction. Following the expiration, transfer or termination of this Agreement, this restriction shall apply to any Competing Business located at or within a three (3) mile radius of the Premises and any Competing Business located within a three (3) mile radius of any then-existing Modern Market Eatery restaurant; or

15.2.2.2 Divert or attempt to divert any present or prospective business or guest to any Competing Business by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Proprietary Marks and the System.

15.2.3 You further covenant and agree that, during the term of this Agreement and for a period of two (2) years following the transfer, expiration or earlier termination of this Agreement, you shall not, either directly or indirectly, for yourself, or through, on behalf of, or in conjunction with any person, firm, partnership, corporation, or other entity, sell, assign, lease or transfer the Premises to any person, firm, partnership, corporation, or other entity which you know, or have reason to know, intends to operate a Competing Business at the Premises that would violate Section 15.2.2.1 if operated by you. You, by the terms of any conveyance selling, assigning, leasing or transferring your interest in the Premises, shall include such restrictive covenants as are necessary to ensure that a Competing Business that would violate Section 15.2.2.1 if operated by you is not operated at the Premises for this two (2) year period, and you shall take all steps necessary to ensure that these restrictive covenants become a matter of public record.

15.3 Exception for Publicly Traded Stock. The restrictions contained in Section 15.2.2.1 will not apply to ownership by you of less than a five percent (5%) beneficial interest in the equity securities of any publicly-held corporation.

15.4 Owners and Employees. Your owner(s) identified in Exhibit B and any other individuals that sign the Guarantee agree to be bound personally by the provisions of Section 15, provided that, as to them, the time period in Section 15.2.2 will run from the expiration, termination, or transfer of this Agreement or from the termination of the individual’s relationship with you, whichever occurs first. At our request, you must obtain signed agreements similar in substance to this Section 15 (including agreements applicable upon termination of a person’s relationship with you) from any: (1) manager as we require; and (2) your officers, directors, and owners. Each agreement required by this Section 15.4 must be in a form we approve and specifically identify us as a third party beneficiary with the independent right to enforce the agreement. Our current form of Non-disclosure and Non-competition Agreement is attached to this Agreement as Exhibit F.

15.5 Enforcement.

15.5.1 We have the right, in our sole discretion, to reduce the scope of any restriction in Section 15.2 by giving you written notice and you agree to comply with any covenant so modified, which shall be fully enforceable notwithstanding the provisions of Section 25.

15.5.2 You agree that the existence of any claims you may have against us, whether or not arising from this Agreement, will not constitute a defense to our enforcement of this Section 15.

15.5.3 You acknowledge that your violation of the terms of this Section 15 would result in irreparable injury to us for which no adequate remedy at law may be available, and you accordingly consent to the issuance of an injunction prohibiting any conduct by you in violation of the terms of this Section 15. Injunctive relief will be in addition to any other remedies we may have.

15.5.4 If you or any other person bound by this Section 15 fails or refuses to abide by any of the foregoing restrictions on competition in Section 15.2, and we obtain enforcement in a judicial proceeding, the obligations under the breached restriction will continue in effect for a period ending two (2) years after the date the person begins to comply with the order enforcing the restriction.

16. **TRANSFER**

16.1 By Us. We have the right to transfer or assign this Agreement or any part of our rights or obligations under this Agreement to any person or legal entity. You agree that we will have no liability after the effective date of the transfer or assignment for the performance of any obligations under this Agreement. You acknowledge that we can sell our assets; sell securities in a public offering or in a private placement; merge with, acquire, or be acquired by another company; or undertake a refinancing, recapitalization, leveraged buy-out, or other economic or financial restructuring, without restriction and without affecting your obligations under this Agreement.

16.2 By You. You acknowledge that the rights and duties set forth in this Agreement are personal to you and that we have granted these rights in reliance on your business skill, financial capacity, and personal character (or, if you are a business entity, on the business skill, financial capacity, and personal character of your owners and management). Accordingly, neither you nor any immediate or remote successor to any interest in this Agreement, nor any individual, partnership, corporation, or other legal entity which directly or indirectly owns any interest in you, may sell, assign, transfer, convey, pledge, encumber or give away any direct or indirect interest in this Agreement, in you, or in substantially all of the assets of the Restaurant (including the Premises), without our prior written consent, which will not be unreasonably withheld. You must notify us in writing of any proposed transfer at least thirty (30) days before the transfer is to take place, and must provide all information and documentation relating to the proposed transfer that we reasonably request. Notwithstanding the foregoing, you may grant a security interest in, or otherwise encumber certain assets of the Restaurant, excluding the Franchise Agreement, in connection with obtaining financing for the development and/or operation of the Restaurant or equipment leasing, if such financing satisfies our requirements, which may include execution of agreements by us, you and your owners and your secured creditor, in a form satisfactory to us, acknowledging such creditor's obligations to be bound by the terms of this Section 16.

16.3 Our Right of First Refusal. We have the right, exercisable within thirty (30) days after receipt of a written request for our approval of a proposed transfer pursuant to this Section 16 (other than a transfer to immediate family members of your owners who meet our operational and financial criteria for new franchisees), to purchase the interest proposed to be transferred. The request for approval of transfer must include a true and complete copy of the term sheet, letter of intent, proposed purchase agreement,

assignment document, or any other document necessary to implement the transfer, and not be subject to financing or any other contingencies. Our thirty (30) day period for determining whether or not to exercise our right of first refusal will not begin until the transferor has provided all information and documentation that we require in a form and substance satisfactory to us. We may assign this right of first refusal to a third party in our sole discretion. If we desire to exercise our right of first refusal, we will do so by providing written notice (the “**Purchase Notice**”) to the transferor, as follows:

16.3.1 If the transfer is proposed to be made pursuant to a sale, we may purchase the interest proposed to be transferred on the same financial terms and conditions offered by the third party. Closing on our purchase will occur within sixty (60) days after the date of the transferor’s receipt of the Purchase Notice. If the consideration, terms, and/or conditions offered by the third party are such that we may not reasonably be required to furnish the same consideration, terms, and/or conditions, then we may purchase the interest proposed to be sold for the reasonable equivalent in cash or on other reasonable terms. If, within thirty (30) days of the transferor’s receipt of the Purchase Notice the parties cannot agree as to the reasonable equivalent in cash consideration, an independent appraiser will be appointed by mutual agreement and the determination of the appraiser will be binding. Any material change in the terms of the offer from a third party after we have elected not to purchase the interest sought to be transferred will constitute a new offer subject to the same rights of first refusal by us as in the case of the third party’s initial offer.

16.3.2 If the transfer is proposed to be made by gift, you and we will jointly designate, at our expense, an independent appraiser to determine the fair market value of the interest proposed to be transferred. We may purchase the interest at the fair market value determined by the appraiser. Closing on the purchase will occur within forty-five (45) days after our notice to the transferor of the appraiser’s determination of fair market value.

16.3.3 Our failure to exercise our right of first refusal shall not constitute approval of the proposed transfer nor a waiver of any other provision of this Section 16 with respect to a proposed transfer. If we do not exercise our right of first refusal, you or your owners may complete the sale to such offeror pursuant to and on the exact terms of such offer, subject to our consent to the transfer as provided in Section 16.2, provided that if the sale to such offeror is not completed within sixty (60) days after receipt of our notice of our decision not to exercise our right of first refusal, or if there is a material change in the terms of the offer, you must promptly notify us, and we will have an additional right of first refusal (on the terms of the revised offer, if any, and otherwise as set forth herein) during the thirty (30) day period following your notification of the expiration of the sixty (60) day period or the material change to the terms of the offer.

16.4 Conditions of Our Consent. If we elect not to exercise our right of first refusal under Section 16.3, the proposed transferor may complete the transfer after obtaining our written consent as required under Section 16.2. We may withhold our consent on any reasonable grounds, or may give our consent subject to reasonable conditions, which may include the following:

16.4.1 That all of your accrued monetary obligations to us and our affiliates (whether arising under this Agreement or otherwise) and all other outstanding obligations related to the Restaurant (including bills from suppliers, taxes, judgments and any required governmental reports, returns, affidavits or bonds) have been satisfied or, in our reasonable judgment, adequately provided for. We reserve the right to require that a reasonable sum of money be placed in escrow to ensure that all of these obligations are satisfied;

16.4.2 That you and your Franchisee Affiliates are: (1) not then in material default of any provision of this Agreement or any other agreement with us or our affiliates; (2) in good standing as a franchisee with us and our affiliates; (3) not in default beyond the applicable cure period under any real estate lease, equipment lease or financing instrument relating to the Restaurant or any other franchised Modern Market Eatery restaurant; and (4) not in default beyond the applicable cure period with any vendor or supplier to the Restaurant;

16.4.3 That the sales price shall not be so high, in our reasonable judgment, as to jeopardize the ability of the transferee to develop, maintain, operate and promote the Restaurant and meet financial obligations to us, third party suppliers and creditors. Our decision with respect to a proposed transfer shall not create any liability on the part of us: (1) to the transferee, if we approve the transfer and the transferee experiences financial difficulties; or (2) to the transferor or the proposed transferee, if we reject the transfer pursuant to this Section 16 or for other legitimate business purposes. We, without any liability to the transferor or the proposed transferee, have the right, in our sole discretion, to communicate and counsel with the transferor, you, and the proposed transferee regarding any aspect of the proposed transfer;

16.4.4 That the transferor (and any other person or entity we require) executes a general release, in a form satisfactory to us, of any and all claims against us, our affiliates and their respective past, present, and future officers, directors, shareholders, and employees, in their corporate and individual capacities;

16.4.5 That the transferee (and if the transferee is a corporation, partnership, or limited liability company, such owners of a beneficial interest in the transferee as we may request) enter into a written assignment, in a form satisfactory to us, assuming and agreeing to discharge all of your obligations under this Agreement; or, at our option, enter into our then current form of Franchise Agreement; and, if the transferor guaranteed your obligations under this Agreement, that the transferee guarantee the performance of all such obligations in writing in a form satisfactory to us;

16.4.6 If the transferee is an existing Modern Market Eatery developer or franchisee, that the transferee is not in default under its agreements with us, its landlords, lenders and its suppliers and has a good record of guest service and compliance with our operating standards and has executed a general release, in a form satisfactory to us;

16.4.7 That the transferee, whether or not an existing Modern Market Eatery developer or franchisee, demonstrates to our satisfaction that he or she meets (or, if the transferee is a business entity, that its owners and management team meet) our educational, managerial, and business standards; possesses a good moral character, business reputation, and credit rating; has the aptitude and ability to conduct the business contemplated hereunder (as may be evidenced by prior related business experience or otherwise); has the ability to obtain a possessory interest in the Premises; has the ability to obtain all required license and permits to operate the Restaurant; and has adequate financial resources and capital to fulfill your obligations under this Agreement in a timely manner;

16.4.8 That you have corrected any existing deficiencies of the Restaurant of which we have notified you, and/or the proposed transferee agrees to upgrade, remodel, and refurbish the Restaurant in accordance with our then current requirements and specifications for Modern Market Eatery Restaurants within the time period we specify following the effective date of the transfer (we will advise the proposed transferee before the effective date of the transfer of the specific actions that are required and the time period within which such actions must be taken);

16.4.9 That the transferee (if an entity, the Operating Principal) and any managers or employees of the transferee who have not previously completed a training program approved by us complete any training programs then in effect for new franchisees; and

16.4.10 That the transferor pays a transfer fee in the amount of fifty percent (50%) of our then-current Franchise Fee plus any costs or expenses we incur for the transfer.

16.5 Transfers to an Entity Wholly Owned by You. If you desire to transfer this Agreement to an entity wholly owned by you, where the ownership and management of the Restaurant will not change, the requirements of Section 16.2 shall apply to such a transfer; however, you will not be required to pay a transfer fee, but you must reimburse us for our costs and expenses. Our consent also will be conditioned on the following: (1) the entity must be newly organized; (2) prior to the transfer, we must receive a copy of the documents specified in Section 16.2 and the transferee shall comply with the remaining provisions of Section 16; and (3) you must own all voting securities of the newly formed corporation (or membership interests of the newly formed limited liability company) or, if you are owned by more than one individual, each person shall have the same proportionate ownership interest in the corporation (or the limited liability company) as prior to the transfer.

16.6 Death, Incapacity or Bankruptcy. If you or any owner dies, becomes incapacitated, or enters bankruptcy proceedings, that person's executor, administrator, personal representative, or trustee must apply to us in writing within three (3) months after the event (death, declaration of incapacity, or filing of a bankruptcy petition) for consent to transfer the person's interest. The transfer will be subject to the provisions of this Section 16, as applicable; however, you will not be required to pay a transfer fee, but you must reimburse us for our costs and expenses. In addition, if the deceased or incapacitated person is the Operating Principal, we will have the right (but no obligation) to take over operation of the Restaurant upon giving notice to the executor, administrator, personal representative, or trustee and to manage the Restaurant until the transfer is completed. If we exercise this right, we can charge a reasonable management fee for our services. For purposes of this Section 16.6, "incapacity" means any physical or mental infirmity that will prevent the person from performing his or her obligations under this Agreement (1) for a period of thirty (30) or more consecutive days, or (2) for sixty (60) or more total days during a calendar year. In the case of transfer by bequest or by intestate succession, if the heirs or beneficiaries are unable to meet the conditions of transfer set forth in Section 16.4, the executor may transfer the decedent's interest to another successor that we have approved, subject to all of the terms and conditions for transfers contained in this Agreement. If an interest is not disposed of under this Section 16.6 within six (6) months after the date of death or appointment of a personal representative or trustee, we can terminate this Agreement under Section 19.2.

16.7 Securities Offering. All materials for a public offering of stock or partnership interests in you or any of your affiliates that are required by federal or state law shall be submitted to us for review as described below before such materials are filed with any government agency. Any materials to be used in any exempt offering shall be submitted to us for such review before their use. You agree that: (1) no offering by you or any of your affiliates may imply (by use of the Proprietary Marks or otherwise) that we are participating in an underwriting, issuance, or offering of your securities or your affiliates; (2) our review of any offering shall be limited solely to the relationship between you and us (and, if applicable, any of your affiliates and us); and (3) we will have the right, but not obligation, to require that the offering materials contain a written statement that we require concerning the limitations stated above. You (and the offeror if you are not the offering party), your owners, and all other participants in the offering must fully indemnify us, our subsidiaries, affiliates, successor, and assigns, and their respective directors, officers, shareholders, partners, agents, representatives, servants, and employees in connection with the offering. For each proposed offering, you agree to pay us a non-refundable fee of Ten Thousand Dollars (\$10,000) or such greater amount as is necessary to reimburse us for our reasonable costs and expenses (including legal and

accounting fees) for reviewing the proposed offering as well as any subsequent or periodic documents needed in connection with your securities offering (e.g., quarterly or annual filings). You agree to give us written notice at least thirty (30) days before the date that any offering or other transaction described in this Section 16.7 commences. Any such offering shall be subject to all of the other provisions of this Section 16; and further, without limiting the foregoing, it is agreed that any such offering shall be subject to our approval as to the structure and voting control of the offeror (and you, if you are not the offeror) after the financing is completed.

16.8 Nonconforming Transfers Void. Any purported assignment or transfer that is not in compliance with this Section 16 will be null and void and will constitute a material breach of this Agreement, for which we may terminate this Agreement without opportunity to cure pursuant to Section 19.2 below. Our consent to a transfer will not constitute a waiver of any claims we may have against the transferor, nor will it be deemed a waiver of our right to demand exact compliance by the transferor, transferee or you with any of the terms of this Agreement.

17. GENERAL RELEASE

17.1 You (on behalf of yourself and, if you are an individual, on behalf of your heirs, representatives, successors and assigns, and if you are an entity, on behalf your parent, subsidiaries and affiliates and their respective past and present members, officers, directors, shareholders, agents and employees, in their corporate and individual capacities) (collectively, “*Franchisee Releasors*”) freely and without any influence forever release and covenant not to sue us, our parent, subsidiaries and affiliates and their respective past and present officers, directors, shareholders, agents and employees, in their corporate and individual capacities (collectively “*Franchisor Releasees*”), with respect to any and all claims, demands, liabilities and causes of action of whatever kind or nature, whether known or unknown, vested or contingent, suspected or unsuspected (collectively, “*Claims*”), which any Franchisee Releasor now owns or holds or may at any time have owned or held, including claims arising under federal, state and local laws, rules and ordinances and Claims arising out of, or relating to this Agreement and all other agreements between any Franchisee Releasor and any Franchisor Releasee, the sale of any franchise to any Franchisee Releasor, the development and operation of the Restaurant and the development and operation of all other restaurants operated by any Franchisee Releasor that are franchised by any Franchisor Releasee. For the purpose of implementing a general release and discharge as described in this Section 17, you expressly acknowledge that this agreement is intended to include in its effect a release of all Claims described in this Section 17, including those which the parties do not know or suspect to exist in their favor at the time of execution hereof, and that this agreement contemplates that any such Claims will be permanently extinguished. You expressly agree that fair consideration has been given by us for this General Release and you fully understand that this is a negotiated, complete and final release of all Claims. This General Release does not release any Claims arising from representations made in our Franchise Disclosure Document and its exhibits or otherwise impair or affect any Claims arising after the date of this Agreement.

17.2 You expressly waive and relinquish all rights and benefits that you either may now have or may in the future have under and by virtue of California Civil Code Section 1542. You do so understanding the significance and consequence of such a specific waiver. (Section 1542 provides that “[a] general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”)

18. RENEWAL

18.1 Renewal Franchise Agreements. When this Agreement expires, you will have an option to remain a franchisee at the Premises for one (1) renewal term of ten (10) years (“**Renewal Term**”) if we are still offering franchises in the area where the Restaurant is located, we have not made a decision to withdraw from the geographic market of the Restaurant and if you are in substantial compliance with the terms of this Agreement. The qualifications and conditions for the each Renewal Term are described below.

18.2 Conditions for a Renewal Term. In order to be eligible for the Renewal Term, you must meet the following conditions:

18.2.1 You must give us written notice of your election to remain a franchisee at the Premises for the Renewal Term at least six (6) months and no more than twelve (12) months before the expiration the Initial Term;

18.2.2 You must not be in default under this Agreement or any other agreements with us and/or our affiliates; you must not be in default beyond the applicable cure period under any real estate lease, equipment lease or financing instrument relating to the Restaurant; you must not be in default beyond the applicable cure period with any vendor or supplier to the Restaurant; and, for the twelve (12) months before the date of your renewal notice and the twelve (12) months before the expiration of the Initial Term, you must not have been in default beyond the applicable cure period under this Agreement or any other agreements with us and/or our affiliates.

18.2.3 You must make the capital expenditures required to renovate and modernize the Restaurant to conform to the interior and exterior designs, décor, color schemes, furnishings and equipment and presentation of the Proprietary Marks consistent with the image of the System for new Modern Market Eatery Restaurants at the time you provide the renewal notice, including such structural changes, remodeling, redecoration and modifications to existing improvements as may be necessary to do so.

18.2.4 As determined by us in our sole discretion, you have operated the Restaurant and you and your Franchisee Affiliates have operated all of your other franchised Modern Market Eatery Restaurants in accordance with the applicable franchise agreements and with the System (as set forth in the Manual or otherwise and as revised by us);

18.2.5 You must present satisfactory evidence to us that you have the right to remain in possession of the Premises, or other premises acceptable to us, for the Renewal Term and all monetary obligations owed to your landlord, if any, must be current;

18.2.6 You must be operating the Restaurant in full compliance with all federal, state and local laws and regulations and you must demonstrate that you are able to maintain all licenses and permits necessary to continue to operate the Restaurant for the Renewal Term; and

18.2.7 You must comply with our qualification and training requirements for new Modern Market Eatery restaurant franchisees.

18.3 Renewal Franchise Agreement. If you are eligible and you elect to remain a franchisee for the Renewal Term, you and your owners must: (1) sign our then-current form of renewal franchise agreement (modified as necessary to reflect the fact that it is a renewal franchise agreement), which will supersede this Agreement in all respects and which may provide for higher fees, fees not included in this Agreement, and other terms and conditions materially different from the terms of this Agreement; (2) sign a general release, in a form we prescribe, of any and all claims against us, our affiliates, and their respective

past and present officers, directors, shareholders, and employees, in their corporate and individual capacities; and (3) pay us a renewal franchise fee in an amount equal to Fifteen Thousand Dollars (\$15,000) (“**Renewal Franchise Fee**”). Your failure to sign the renewal franchise agreement and general release and return these documents to us with the Renewal Franchise Fee prior to the expiration of the Initial Term will be deemed an election by you not to exercise your right to remain a franchisee for the Renewal Term and will result in the expiration of this Agreement and the franchise granted by this Agreement at the expiration of the Initial Term.

19. DEFAULT AND TERMINATION

19.1 Termination without Notice. You will be deemed to be in default under this Agreement, and all rights granted to you in this Agreement will automatically terminate without notice to you, if you become insolvent or make a general assignment for the benefit of creditors; if a petition in bankruptcy is filed by you or is filed against you and not opposed by you; if you are adjudicated as bankrupt or insolvent; if a bill in equity or other proceeding for the appointment of a receiver or other custodian for your business or assets is filed and consented to by you; if a receiver or other custodian (permanent or temporary) of your assets or property, or any part thereof, is appointed by any court of competent jurisdiction; if proceedings for a composition with creditors under any state or federal law are instituted by or against you; if a final judgment against you remains unsatisfied or of record for thirty (30) days or longer (unless supersedeas bond is filed); if you are dissolved; if execution is levied against your business or property; if suit to foreclose any lien or mortgage against the Premises or equipment of the Restaurant is instituted against you and not dismissed within thirty (30) days; or if the real or personal property of the Restaurant is sold after levy thereupon by any sheriff, marshal, or constable.

19.2 Termination without Cure Period. If any of the following events of default occurs, we may terminate this Agreement without providing you any opportunity to cure the default, effective immediately upon receipt of written notice by you:

19.2.1 You fail to meet the Site Acceptance Deadline or the Opening Deadline.

19.2.2 You cease to operate the Restaurant during the days and hours specified in the Manual for a period in excess of three (3) consecutive business days or for five (5) individual business days within a twelve (12) month period, unless the closing is due to fire, flood, earthquake or other similar causes beyond your control or is approved in writing in advance by us.

19.2.3 We make a reasonable determination that continued operation of the Restaurant by you will result in an imminent danger to public health or safety.

19.2.4 You lose possession of the Premises through your own fault or your failure to extend the lease for the Premises through the Initial Term or you relocate the Premises without our prior written approval.

19.2.5 Your Operating Principal or any manager we require fails to satisfactorily complete any training program or you fail or refuse to have your employees attend any training programs.

19.2.6 You, your owners, your employees or your independent contractors do business with third parties in violation of The Patriot Act and/or the Foreign Corrupt Practices Act.

19.2.7 You default on the terms of any indebtedness that results in the acceleration of the indebtedness with an outstanding principal amount of \$100,000 or more; there is a material loss or damage to any of your assets related to the Restaurant that results in an aggregate loss (in excess of coverage) of

\$100,000 or more; or there is an entry of a judgment against you involving aggregate liability (in excess of insurance coverage) of \$100,000 or more if such judgment remains unpaid or unsatisfied for a period of ten (10) or more days following entry of the judgment.

19.2.8 There is a material breach by you of any covenant or obligation under Section 15.

19.2.9 Any transfer that requires our prior written consent occurs without your having obtained that prior written consent;

19.2.10 We discover that you made a material misrepresentation in or omitted a material fact from the information that you provided to us in connection with our decision to enter into this Agreement.

19.2.11 You knowingly falsify any report required to be furnished to us or make any material misrepresentation in your dealings with us or fail to disclose any material facts to us.

19.2.12 You, your Operating Principal, or any of your 10% Owners are convicted of, or plead no contest to, a felony charge, a crime involving moral turpitude, or any other crime or offense that is reasonably likely, in our sole opinion, to adversely affect us, our affiliates or the System.

19.2.13 You, your Operating Principal or any of your 10% Owners (1) materially misuse or make unauthorized use of the Proprietary Marks or the Works, (2) commit any act or take any action that impairs the goodwill of the Proprietary Marks, (3) use the Works or other proprietary System know-how at any business owned or operated by you or your 10% Owners other than a Modern Market Eatery restaurant; or (4) fail to cure any breach or default under this Agreement that materially impairs or can be expected to impair the goodwill associated with the Proprietary Marks.

19.2.14 You understate the Gross Sales of the Restaurant for any period by two percent (2%) or more three (3) or more times during any eighteen (18) month period, or by more than five percent (5%) on any one occasion.

19.2.15 You conceal revenue, taking for your own use employee taxes, FICA, insurance or benefits or any of our property.

19.2.16 You, your Franchisee Affiliates (including any Controlled Affiliate as defined in the Development Agreement, if applicable), your Operating Principal, any member of the Control Group, or any 10% Owner: (1) remain in default beyond the applicable cure period under any other agreement (provided that this shall not include an development agreement with us) with us or our affiliates (provided that, if the default is not by you, we shall provide to you written notice of the default and a fifteen (15) day period to cure the default); (2) remain in default beyond the applicable cure period under any real estate lease, equipment lease, financing instrument or supplier contract relating to the Restaurant; (3) fail to pay when due any taxes or assessments relating to the Restaurant or its employees, unless you are actively prosecuting or defending the claim or suit in a court of competent jurisdiction or by appropriate government administrative procedure or by arbitration or mediation conducted by a recognized alternative dispute resolution organization.

19.2.17 You have received three (3) or more notices of default within a twelve (12) month period.

19.2.18 You repeatedly fail to comply with one or more requirements of this Agreement, regardless of whether you have previously cured the default.

19.3 Termination Following Expiration of Cure Period.

19.3.1 Except as otherwise provided above in Sections 19.1 and 19.2 above, if you fail to maintain or observe any of the standards or procedures prescribed by us in this Agreement, the Manual, or otherwise in writing, we may only terminate this Agreement by giving you written notice of termination (in the manner set forth under Section 24 below) stating the nature of the default at least thirty (30) days before the effective date of termination; provided, however, that you may avoid termination by immediately initiating a remedy to cure such default, curing it to our satisfaction, and by promptly providing proof of the cure to us, all within the thirty (30) day period. If any such default is not cured within the specified time, then this Agreement shall terminate without further notice to you effective immediately upon the expiration of the thirty (30) day period.

19.3.2 Notwithstanding the provisions of preceding Section 19.3.1, if you default in the payment of any monies owed to us when such monies become due and payable and you fail to pay such monies within five (5) days after receiving written notice of default, then this Agreement shall terminate without further notice to you effective immediately upon the expiration of the five (5) day period.

19.3.3 In addition to the other provisions of this Section 19.3, if we reasonably determine that you become or will become unable to meet your obligations to us or our affiliates under this Agreement, we may provide you written notice to that effect and demand that you provide those assurances reasonably designated by us, which may include security or letters of credit for the payment of your obligations to us and our affiliates. If you fail to provide the assurances demanded by us within thirty (30) days after its receipt of written notice from us, this Agreement shall terminate without further notice to you effective immediately upon expiration of that time, unless we notify you otherwise in writing.

19.4 Termination Following Inspection. We will have the right to periodically conduct inspections of the Restaurant to evaluate your compliance with the System and this Agreement. Following each inspection, we will provide you an inspection report listing your score on the inspection and those conditions at the Restaurant that must be rectified. If you fail to achieve a passing score on an inspection, the inspection report shall constitute a notice of default. If you fail to achieve a passing score on the next inspection (which shall be conducted at least thirty (30) days after your receipt of the inspection report for the prior inspection), we may terminate this Agreement, without opportunity to cure, by providing you written notice of termination along with the inspection report.

19.5 Management Rights.

19.5.1 We will have the right (directly or through a third party) (but not the obligation) to take over the management of the Restaurant under the following circumstances: (1) if we have the right to terminate this Agreement or we have placed you in formal default of this Agreement; (2) if your Operating Principal dies or becomes disabled; or (3) if this Agreement expires or is terminated and we are deciding whether to exercise our option to purchase the Restaurant under Section 20.2 below. We will determine whether or not to exercise our management rights within fifteen (15) days of the occurrence of such circumstances, and shall inform you in writing of our determination. Exercise of our management rights will not affect any right we have to terminate this Agreement. If we (or a third party) take over the management and operation of the Restaurant as provided in this Section 19.5, you agree to pay us (in addition to the Royalty Fee, Brand Fund Contribution, and other amounts due under this Agreement) a management fee in the amount of twenty percent (20%) of the monthly Gross Sales of the Restaurant for our services.

19.5.2 If we (or a third party) exercise the above right to assume the management and operation of the Restaurant, you acknowledge and agree that we (and any such third party) will have a duty to use only reasonable commercial efforts and, provided we (or the third party) are not grossly negligent and do not commit an act of willful misconduct, we (or the third party) will not be liable to you or your owners for any debts, losses, or obligations the Restaurant incurs, or to any of your creditors for any supplies, products, or other assets or services the Restaurant purchases, while we (or the third party) manage the Restaurant.

19.6 Statutory Limitations. If any valid, applicable law or regulation of a competent governmental authority with jurisdiction over this Agreement requires a notice or cure period prior to termination longer than set forth in this Section 19, this Agreement will be deemed amended to conform to the minimum notice or cure period required by the applicable law or regulation.

20. OBLIGATIONS UPON TERMINATION OR EXPIRATION

20.1 Obligations. Except as provided in Section 20.2 below, upon termination or expiration of this Agreement:

20.1.1 You must immediately cease operating the Restaurant.

20.1.2 You must promptly pay all sums owing to us and our affiliates. In the event of termination for your default, the sums will include all damages, costs, and expenses incurred by us as a result of the default, including reasonable attorneys' fees and legal fees. You must permit our access to, and examination of, your books and records as provided in Section 12 to determine any amounts due.

20.1.3 You must promptly deliver to us the Manual and all other records, correspondence, and instructions in your possession or control, in any medium, that contain confidential information, trade secrets, or know-how relating to the System or the operation of a Restaurant.

20.1.4 You must immediately cease to use the confidential methods, procedures, and techniques associated with the System, the "Modern Market Eatery" name and mark, all other Proprietary Marks, the Works, and all other distinctive forms, slogans, signs, symbols, websites, domain names, e-mail addresses, telephone numbers, other electronic identifiers, and devices associated with the Restaurant or the System; withdraw all advertising matter (including electronic marketing); remove the Proprietary Marks from the Premises and from clothing, signs, letterhead, materials, motor vehicles and other items owned or used by you in the operation of the Restaurant. You must not thereafter, directly or indirectly, represent yourself to the public or hold yourself out as a present or former franchisee of ours.

20.1.5 You must promptly make such alterations and modifications to the Premises as may be necessary to clearly distinguish to the public the Premises from its former appearance as a Modern Market Eatery restaurant and also make those specific additional changes as we may request for that purpose. If you fail to promptly make these alterations and modifications, we will have the right (at your expense, to be paid upon your receipt of an invoice from us) to do so without being guilty of trespass or other tort.

20.1.6 You must take such action as may be necessary to cancel any assumed name registration or equivalent registration, and any e-mail address or domain name registration, obtained by you which contains "Modern Market Eatery" or any other Proprietary Marks, and furnish evidence satisfactory to us of compliance with this obligation within five (5) days after the termination or expiration of this Agreement. You hereby appoint us your attorney-in-fact to carry out the requirements of this Section 20.1.6, if you fail to do so within such five (5) day period.

20.1.7 You may not use any reproduction, counterfeit, copy, or colorable imitation of the Proprietary Marks or the Works in connection with any other business which, in our sole discretion, is likely to cause confusion, mistake, or deception or to dilute our and our affiliates' rights in and to the Proprietary Marks and the Works. You must not use any designation of origin or description or representation which, in our sole discretion, falsely suggests or represents an association or connection with us.

20.1.8 You, your guarantors and all persons and entities subject to the covenants contained in Section 15 must continue to abide by those covenants and refrain from, directly or indirectly, taking any action that violates those covenants.

20.1.9 You must furnish to us, within thirty (30) days after the effective date of termination or expiration, evidence (certified to be true, complete, accurate and correct by your Operating Principal) satisfactory to us of your compliance with Sections 20.1.1 through 20.1.8.

20.2 Our Rights to Acquire the Premises and the Restaurant Assets. Upon expiration or termination of this Agreement, at our option you must:

20.2.1 Assign, sell, sublicense or otherwise transfer to us your wine, beer license or liquor license (unless prohibited by law).

20.2.2 Assign to us your interest in the lease or sublease for the Premises (or provide us with a commercially reasonable lease in the event you own the Premises); or, if you own the Premises, lease the Premises to us pursuant to the terms of our standard lease, for a term of five (5) years with two successive five (5) year renewal options at fair market rental during the term of the lease. If we elect not to exercise our option to acquire the lease or sublease for the Premises, you must make such modifications or alterations to the Premises as may be necessary to comply with Section 20.1.5.

20.2.3 Sell to us such of the furnishings, equipment, signs, and fixtures of the Restaurant as we may designate, at fair market value, and such of the inventory and supplies of the Restaurant as we may designate, at fair market wholesale value. If the parties cannot agree on the price of any such items within a reasonable time, an independent appraiser will be appointed by us at our expense, and the appraiser's determination will be binding on both parties. If we exercise our option to purchase any items, we will have the right to set off all amounts due from you against any payment for such items.

20.2.4 We may exercise any or all of our options under Sections 20.2.1, 20.2.2 or 20.2.3: (1) anytime during the six (6) month period before the expiration of the Initial Term, in the case of expiration of this Agreement; and (2) at any time between the date of delivery of written notice of termination and ninety (90) days after the effective date of termination, in the case of termination of this Agreement. If we deem such action desirable in order to preserve the value of such options, we may issue to you, and you must comply with, written instructions to refrain from, delay, or reverse any of the actions required of you under Section 20.1.

20.3 Early Termination Damages.

20.3.1 If you default on your obligations and we terminate this Agreement prior to the expiration of the Initial Term, it is hereby agreed that the amount of damages which we would incur for any such termination of this Agreement would be difficult, if not impossible, to accurately ascertain. Accordingly, within thirty (30) days following such termination, you and your owners shall pay to us an amount equal to the average Royalty Fees that you owed for the one year period prior to termination (or, if the Restaurant was open for less than one year, the average Royalty Fees owed by you for the number of weeks that the Restaurant was in operation) multiplied by the lesser of twelve (12) months or the remaining

Initial Term. These early termination damages shall constitute liquidated damages and are not to be construed as a penalty and shall be the joint and several liability of you and your owners.

20.3.2 The parties acknowledge and agree that: (1) the early termination damages are a reasonable estimation of the damages that would be incurred by us resulting from or arising out of the premature termination of this Agreement; and (2) your payment of such early termination damages is intended to fully compensate us only for any and all damages related to or arising out of the premature termination of this Agreement by us, and shall not constitute an election of remedies, waiver of any default under this Agreement, nor waiver of our claim for other damages and/or equitable relief arising out of your breach of this Agreement. The imposition of early termination damages shall be at our option. We are not required to impose early termination damages and may, in addition or in lieu thereof, pursue other remedies available to us under the terms and conditions of this Agreement, in equity or at law in the event of your default under this Agreement, including actual damages incurred by us, if such can be ascertained. All such remedies shall be cumulative and non-exclusive.

20.4 Our Costs and Expenses. You agree to pay us all damages, costs, and expenses (including reasonable attorneys' fees) we incur in obtaining injunctive, declaratory, or other relief to enforce this Section 20.

21. INDEPENDENT CONTRACTOR AND INDEMNIFICATION

21.1 Independent Contractor. This Agreement does not create a fiduciary relationship between you and us. You are an independent contractor, and nothing in this Agreement is intended to make either party an agent, legal representative, subsidiary, joint venture, partner, employee, or servant of the other for any purpose whatsoever. While this Agreement is in effect, you must hold yourself out to the public as an independent contractor operating the Restaurant pursuant to a franchise agreement from us. This Agreement does not authorize you to make any contract, agreement, warranty, or representation on our behalf or to incur any debt or other obligation in our name. We will not be deemed liable as a result of any such action, nor will we be liable by reason of your act or omission in the operation of the Restaurant, or for any claim or judgment arising therefrom against you or us.

21.2 Indemnification.

21.2.1 You and your 10% Owners will defend, indemnify and hold harmless, us and our parent, affiliates, subsidiaries and their successors and assigns, and each of their respective direct and indirect owners, directors, officers, managers, employees, agents, attorneys, and representatives (collectively, "**Indemnified Parties**") from and against all Losses (as defined below) which any of the Indemnified Parties may suffer, sustain or incur as a result of a claim asserted or inquiry made formally or informally, or a legal action, investigation, or other proceeding brought by a third party and directly or indirectly arising out of your development and operation of the Restaurant, your conduct of business under this Agreement, your breach of this Agreement or your noncompliance or alleged noncompliance with any law, ordinance, rule or regulation including any allegation that we or another Indemnified Party is a joint employer or otherwise responsible for your acts or omissions relating to your employees. We will promptly notify you of any claim that may give rise to a claim of indemnity hereunder, provided, however, that the failure to provide such notice will not release you from your indemnification obligations under this section except to the extent you are actually and materially prejudiced by such failure.

21.2.2 You will have the right, upon written notice delivered to the Indemnified Party within fifteen (15) days thereafter assuming full responsibility for Losses resulting from such claim, to assume and control the defense of such claim, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of the fees and disbursements of such counsel. If (1) the

Indemnified Party will have been advised by counsel that there are one or more legal or equitable defenses available to it that are different from or in addition to those available to you and, in the reasonable opinion of the Indemnified Party, your counsel could not adequately represent the interests of the Indemnified Party because such interests could be in conflict with your interests, or (2) you do not assume responsibility for such Losses in a timely manner or you fail to defend a claim with counsel reasonably satisfactory to the Indemnified Party as contemplated above, then the Indemnified Party will have the right to employ counsel of its own choosing, and you will pay the fees and disbursements of such Indemnified Party's counsel as incurred. In connection with any claim, the Indemnified Party or you, whichever is not assuming the defense of such claim, will have the right to participate in such claim and to retain its own counsel at such party's own expense.

21.2.3 You or the Indemnified Party (as the case may be) will keep you or the Indemnified Party (as the case may be) reasonably apprised of, and will respond to any reasonable requests concerning, the status of the defense of any claim and will cooperate in good faith with each other with respect to the defense of any such claim. You will not, without the prior written consent of the Indemnified Party, (1) settle or compromise any claim or consent to the entry of any judgment with respect to any claim which does not include a written release from liability of such claim for the Indemnified Party and its affiliates, direct and indirect owners, directors, managers, employees, agents and representatives, or (2) settle or compromise any claim in any manner that may adversely affect the Indemnified Party other than as a result of money damages or other monetary payments which will be paid by you. No claim that is being defended in good faith by you in accordance with the terms of this section will be settled by the Indemnified Party without your prior written consent. Notwithstanding anything to the contrary herein, if a claim involves the Proprietary Marks, you agree that we will have the exclusive right to assume the defense of such claim, at your expense with counsel selected by us, but reasonably satisfactory to you.

21.2.4 You have no obligation to indemnify or hold harmless an Indemnified Party for any Losses to the extent they are determined in a final, unappealable ruling issued by a court or arbitrator with competent jurisdiction to have been caused solely and directly by the Indemnified Party's gross negligence, willful misconduct, or willful wrongful omissions.

21.2.5 For purposes of this Section 21.2, "**Losses**" include all obligations, liabilities, damages (actual, consequential, or otherwise), and defense costs that any Indemnified Party incurs. Defense costs include accountants', arbitrators', attorneys', and expert witness fees, costs of investigation and proof of facts, court costs, travel and living expenses, and other expenses of litigation and alternative dispute resolution.

21.2.6 Your obligations in this Section 21.2 will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination. An Indemnified Party need not seek recovery from any insurer or other third party, or otherwise mitigate its Losses, in order to maintain and recover fully a claim against you under this Section 21.2. You agree that a failure to pursue a recovery or mitigate a Loss will not reduce or alter the amounts that an Indemnified Party may recover from you under this Section 21.2.

22. APPROVALS AND WAIVERS

22.1 Approvals. Whenever this Agreement requires our prior approval or consent, you must make a timely written request to us, and our approval or consent must be obtained in writing and signed by one of our officers.

22.2 No Warranty. We make no warranties or guarantees upon which you may rely and assume no liability or obligation to you by providing any waiver, approval, consent, or suggestion to you in connection with this Agreement, or by reason of any neglect, delay, or denial of any request therefor.

22.3 No Implied Waiver. No delay or failure by us to exercise any right reserved to us under this Agreement or to insist upon strict compliance by you with any obligation or condition hereunder, and no custom or practice of the parties at variance with the terms hereof, will constitute a waiver of our right to exercise such right or to demand exact compliance by you with any of the terms hereof. Waiver by us of any particular default by you will not affect or impair our rights with respect to any subsequent default of the same, similar, or a different nature. Acceptance by us of any payments due to us hereunder will not be deemed to be a waiver by us of any preceding breach by you.

23. FORCE MAJEURE

If the performance of any obligation by any party under this Agreement is prevented, hindered or delayed by reason of Force Majeure that cannot be overcome by reasonable commercial measures, the parties shall be relieved of their respective obligations (to the extent that the parties, having exercised best efforts, are prevented, hindered or delayed in such performance) during the period of such Force Majeure. The party whose performance is affected by an event of Force Majeure shall give prompt written notice of such Force Majeure event to the other party by setting forth the nature thereof and an estimate as to its duration. Your inability to obtain financing (regardless of the reason) shall not constitute Force Majeure.

24. NOTICES

Any and all notices that are required or permitted under this Agreement shall be in writing and shall be personally delivered, or mailed in the United States mail, postage prepaid, certified mail, return receipt requested, or mailed via overnight courier, or by other means that affords the sender evidence of delivery, of rejected delivery, or attempted delivery to the respective parties at the addresses shown on the signature page of this Agreement (unless and until a different address has been designated by written notice to the other party). Any notices sent by personal delivery, next day delivery service or by electronic means shall be deemed given on the next business day after transmittal. Any notices sent by certified mail shall be deemed given on the third business day after the date of mailing. Any change in the foregoing addresses shall be effected by giving fifteen (15) days written notice of such change to the other party. We may provide you with routine information, invoices, updates to the Manual, System standards and other System requirements and programs, including any modifications thereto, by regular mail or by e-mail, or by making such information available to you on the Internet, an extranet, or other electronic means.

25. ENTIRE AGREEMENT

This Agreement and the attachments to this Agreement, constitute the entire, full and complete agreement between the parties concerning your rights, and supersede any and all prior or contemporaneous negotiations, discussions, understandings or agreements. There are no other representations, inducements, promises, agreements, arrangements, or undertakings, oral or written, between the parties relating to the matters covered by this Agreement other than those set forth in this Agreement and in the attachments. No obligations or duties that contradict or are inconsistent with the express terms of this Agreement may be implied into this Agreement. Subject to our rights to modify the Manual, the System standards and the System, and our right to modify Exhibit A to reflect the Premises pursuant to Section 3.3 or as expressly set forth in this Agreement, no amendment, change or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed in writing. Notwithstanding the foregoing, nothing in this Agreement is intended to disclaim any representation made in our Franchise Disclosure Document that we provided to you.

26. DISPUTES

26.1 Choice of Law. This Agreement and any claim or controversy arising out of, or relating to, rights and obligations of the parties under this Agreement and any other claim or controversy between the parties shall be governed by and construed in accordance with the laws of the State of Colorado without regard to conflicts of laws principles. Notwithstanding the foregoing, Sections 15.2, 15.4, and 15.5 of this Agreement will be interpreted, governed, and construed in accordance with the laws of the state in which the Restaurant is located. Nothing in this Section 26.1 is intended, or shall be deemed, to make any Colorado law regulating the offer or sale of franchises or the franchise relationship applicable to this Agreement if such law would not otherwise be applicable. If any provision of this Agreement would not be enforceable under the laws of Colorado, you are located outside of Colorado, and such provision would be enforceable under the laws of the state in which you are located, then such provision shall be interpreted and construed under the laws of that state.

26.2 Choice of Forum. The parties agree that, to the extent any disputes cannot be resolved directly between them, you must file any suit against us only in the federal or state court in the judicial district in which our principal place of business is located at the time suit is filed. We must file suit in the federal or state court located in the judicial district in which our principal place of business is located at the time suit is filed, in the jurisdiction where you reside or do business, where the Restaurant is or was located, or where the claim arose. The parties consent to the personal jurisdiction of such courts and waive any questions of personal jurisdiction or venue for the purpose of carrying out this provision.

26.3 Limitations of Actions. Except for payments owed by one party to the other, and unless prohibited by applicable law, any legal action or proceeding brought or instituted with respect to any dispute arising from or related to this Agreement (including the offer and sale of a franchise to you) or with respect to any breach of the terms of this Agreement must be brought or instituted within a period of two (2) years after the initial occurrence of any act or omission that is the basis of the legal action or proceeding, whenever discovered.

26.4 Reimbursement of Costs and Expenses. If either party brings an action against the other party in a judicial proceeding, the party prevailing in that proceeding shall be entitled to reimbursement of costs and expenses, including reasonable accountants', attorneys', attorneys' assistants' and expert witness fees, the cost of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether incurred prior to, during, in preparation for, in contemplation of or after the filing of, the proceeding. If we utilize legal counsel (including in-house counsel employed by us) in connection with any failure by you to comply with this Agreement, you shall reimburse us for any of the above-listed costs and expenses incurred by us. In any judicial proceeding, the amount of these costs and expenses will be determined by the court and not by a jury.

26.5 Rights of Parties are Cumulative. The parties' rights under this Agreement are cumulative, and the exercise or enforcement of any right or remedy under this Agreement will not preclude the exercise or enforcement by a party of any other right or remedy under this Agreement that it is entitled to by law or this Agreement to exercise or enforce.

26.6 Waiver of Jury Trial and Punitive Damages.

26.6.1 TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY WAIVES ANY RIGHT TO, OR CLAIM FOR, ANY CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER PARTY. THE PARTIES ALSO AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN THEM, THE PARTY MAKING A CLAIM WILL BE LIMITED TO THE RECOVERY OF ACTUAL DAMAGES, IF ANY.

26.6.2 THE PARTIES IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, AND/OR COUNTERCLAIM BROUGHT BY EITHER PARTY.

26.7 Waiver of Class Action Lawsuits. THE PARTIES IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO BRING, OR BE A CLASS MEMBER IN, ANY CLASS ACTION SUITS.

26.8 Injunctive Relief. You acknowledge and agree that your failure to comply with the terms of this Agreement, including the failure to comply fully with all post-termination obligations, is likely to cause irreparable harm to us, our affiliates and the System. Therefore, you agree that, in the event of a breach or threatened breach of any of the terms of this Agreement by you, we shall be entitled to injunctive relief (both preliminary and permanent) restraining that breach and/or to specific performance to prevent the irreparable harm that you agree your failure to comply will cause without posting any bond or security. Any equitable remedies sought by us shall be in addition to, and not in lieu of, all remedies and rights that we otherwise may have arising under applicable law or by virtue of any breach of this Agreement.

27. SEVERABILITY AND CONSTRUCTION

27.1 Severability. If any provision of this Agreement is determined to be invalid or in conflict with any existing or future law or regulation by a court or agency having valid jurisdiction, the invalidity will not impair the operation of any other provisions which remain otherwise enforceable. The latter will continue to be given full force and effect, and the invalid provisions will be deemed not to be a part of this Agreement.

27.2 Counterparts. This Agreement may be signed in counterparts, signature pages may be exchanged by facsimile and any other electronic transmission (including PDF), and each such counterpart, when taken together with all other identical copies of this Agreement also signed in counterpart, shall be considered as one complete agreement.

27.3 Gender and Number. All references to gender and number shall be construed to include such other gender and number as the context may require.

27.4 Captions. All captions in this Agreement are intended solely for the convenience of the parties, and none shall be deemed to affect the meaning or construction of any provision of this Agreement.

27.5 Time. Time is of the essence of this Agreement for each provision in which time is a factor. Whenever this Agreement refers to a period of days or months, the first day or month to be counted shall be the day or month of the designated action, event or notice. Days shall be measured by calendar days, except that if the last day of a period is a Saturday, Sunday or national holiday, the period automatically shall be extended to the next day that is not a Saturday, Sunday or national holiday.

27.6 Survival of Obligations. All obligations that expressly or by reasonable implication are to be performed, in whole or in part, after the expiration, termination, or assignment of this Agreement will survive expiration, termination, or assignment.

27.7 No Implied Third Party Beneficiaries. Except as explicitly provided to the contrary herein, nothing in this Agreement is intended or will be deemed to confer any rights or remedies on any person or legal entity other than you, your owner(s), us, and our affiliates.

27.8 Lesser Included Obligations. You agree to be bound by any promise or covenant imposing the maximum duty permitted by law which is subsumed within any provision of this Agreement, as though it were separately articulated in and made a part of this Agreement, that may result from (1) striking any portion of a provision that a court or agency may hold to be unreasonable and unenforceable; or (2) reducing the scope of any promise or covenant to the extent required to comply with a court or agency order.

27.9 Best Interests of System. Whenever we exercise a right and/or discretion to take or withhold an action, or to grant or decline to grant you a right to take or withhold an action, except as otherwise expressly provided in this Agreement, we can make our decision or exercise our discretion on the basis of our judgment of what is in our best interests. "Best interests" includes what we believe to be the best interests of the System at the time the decision is made or the right or discretion is exercised, even though there may have been other alternative decisions or actions that could have been taken; (2) our decision or the action taken promotes our own financial interest; or (3) our decision or the action may apply differently to different franchisees and/or to any Modern Market Eatery Restaurants that we or our affiliates operate. In the absence of an applicable statute, we will have no liability to you for any such decision or action. If applicable law implies a covenant of good faith and fair dealing in this Agreement, we and you agree that the covenant will not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Agreement.

28. REPRESENTATIONS AND ACKNOWLEDGMENTS

You represent, acknowledge and warrant to us (and you agree that these representations, acknowledgments and warranties shall survive termination of this Agreement) that:

28.1 Legal and Business Rights and Risks. This Agreement involves significant legal and business rights and risks. We do not guarantee your success.

28.2 No Representation of Your Success. We make no express or implied warranties or representations that you will achieve any degree of success in the development or operation of the Restaurant. Your success in the development and operation of the Restaurant depends ultimately on your efforts and abilities and on other factors, including market and other economic conditions, your financial condition and competition.

28.3 Our Agreements with Third Parties. We have entered, and will continue to enter, into agreements with other franchisees to operate Modern Market Eatery Restaurants. The manner in which we enforce our rights and the franchisees' obligations under any of those other agreements shall not affect our ability to enforce our rights or your obligations under this Agreement.

28.4 System Modifications. We may change or modify the System, from time to time, including the Manual, and you will be required to make such expenditures as such changes or modifications in the System may require.

28.5 Franchise Application. All information that you provided to us in connection with your franchise application and our grant of this Franchise is truthful, complete and accurate.

28.6 Signatories to this Agreement. The persons signing this Agreement on your behalf have full authority to enter into this Agreement and the other agreements contemplated by the parties. Your execution of this Agreement or such other agreements does not and will not conflict or interfere with, directly or indirectly, intentionally or otherwise, with the terms of any other agreement with any other third party to which you or any owner is a party.

28.7 No Actual or Apparent Authority. Even though this Agreement contains provisions requiring you to operate the Restaurant in compliance with the System: (1) we and our affiliates do not have actual or apparent authority to control the day-to-day conduct and operation of your business or employment decisions; and (2) the parties do not intend for us or our affiliates to incur any liability in connection with or arising from any aspect of the System or your use of the System, whether or not in accordance with the requirements of the Manual, except with respect to any liability arising from our gross negligence or willful misconduct.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

FRANCHISOR:

MODERN MARKET FRANCHISING, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

Notice Address: 3001 Brighton Blvd.
Suite 701
Denver, CO 80216

Effective Date: _____

FRANCHISEE:

If a corporation, partnership, or limited liability company, print name of business entity on the line below:

By: _____
Name: _____
Title: _____

Notice Address: _____

If Franchisee is one or more individuals:

(Print Name):

Date: _____

(Print Name):

Date: _____

Notice Address: _____

EXHIBIT A
TO
MODERN MARKET EATERY FRANCHISE AGREEMENT

FRANCHISE INFORMATION

Franchisee: _____

Premises: _____

If the Premises has not been accepted by us as of the Effective Date, the **Site Selection Area** shall be identified as: _____

Protected Area: _____

Franchise Fee: \$40,000

Opening Date: The Opening Date is: _____

EXHIBIT B
TO
MODERN MARKET EATERY FRANCHISE AGREEMENT
OWNERSHIP INTERESTS

Franchisee: _____

Corporate Franchisee. If Franchisee is a corporation, the number of authorized shares of Franchisee that have been issued is _____ and the name, address, number of shares owned (legally or beneficially) and office held by each shareholder is as follows:

Name	Home Address	No. of Shares	Office Held

Limited Liability Company Franchisee. If Franchisee is a limited liability company, the name, address and percentage interest of each member is as follows:

Name	Home Address	Percentage Interest

Other Business Entity Franchisee. If Franchisee is some other business entity, the type of business entity and the name, address and ownership interest (including for a limited partnership, whether a general or limited partner) of each owner is as follows:

Type of Business Entity: _____

Name	Home Address	Ownership Interest

Control Group. Franchisee's Control Group shall be comprised of the following persons: _____

Operating Principal. Franchisee's Operating Principal is: _____

General Manager or Assistant General Manager is: _____

EXHIBIT C
TO
MODERN MARKET EATERY FRANCHISE AGREEMENT

GUARANTEE AND ASSUMPTION OF FRANCHISEE'S OBLIGATIONS

In consideration of, and as an inducement to, the execution of the Modern Market Eatery Franchise Agreement dated as of _____ (“**Agreement**”) by Modern Market Franchising, LLC (“**Franchisor**”), entered into with _____ (“**Franchisee**”), the undersigned (“**Guarantors**”), each of whom is an officer, director, member of Franchisee’s Control Group or a 10% Owner hereby personally and unconditionally agree as follows:

1. **Guarantee To Be Bound By Certain Obligations.** Guarantors hereby personally and unconditionally guarantee to Franchisor and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement or at law or in equity, that each will be personally bound by the covenants and restrictions contained in Section 15 (Covenants) of the Agreement.

2. **Guarantee and Assumption of Franchisee’s Obligations.** Guarantors hereby: (1) guarantee to Franchisor and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement or at law or in equity, that Franchisee and any assignee of Franchisee’s interest under the Agreement shall: (a) punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement, and (b) punctually pay all other monies owed to Franchisor and/or its affiliates; (2) agree to be personally bound by each and every provision in the Agreement, including, without limitation, the provisions of Sections 15 (Covenants) and 21.2 (Indemnification); and (3) agree to be personally liable for the breach of each and every provision in the Agreement.

3. **General Terms and Conditions.** The following general terms and conditions shall apply to this Guarantee:

Each of the undersigned waives: (1) acceptance and notice of acceptance by Franchisor of the foregoing undertakings; (2) notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; (3) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed; (4) any right s/he may have to require that an action be brought against Franchisee or any other person as a condition of liability; (5) all rights to payments and claims for reimbursement or subrogation which any of the undersigned may have against Franchisee arising as a result of the execution of and performance under this Guarantee by the undersigned; (6) any law or statute which requires that Franchisor make demand upon, assert claims against or collect from Franchisee or any others, foreclose any security interest, sell collateral, exhaust any remedies or take any other action against Franchisee or any others prior to making any demand upon, collecting from or taking any action against the undersigned with respect to this Guarantee; (7) any and all other notices and legal or equitable defenses to which he may be entitled; and (8) any and all right to have any legal action under this Guarantee decided by a jury.

Each of the undersigned consents and agrees that: (1) her/his direct and immediate liability under this Guarantee shall be joint and several; (2) s/he shall render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so; (3) such liability shall not be contingent or conditioned upon pursuit by Franchisor of any remedies against Franchisee or any other person; (4) such liability shall not be diminished, relieved or otherwise affected by any amendment of the Agreement, any extension of time, credit or other indulgence which Franchisor may from time to time grant to Franchisee or to any other person including, without limitation, the acceptance of any partial payment or performance or the compromise or release of any claims, none of which shall in any way modify or amend

this Guarantee, which shall be continuing and irrevocable during the term of the Agreement and for so long thereafter as there are monies or obligations owing from Franchisee to Franchisor or its affiliates under the Agreement; and (5) monies received from any source by Franchisor for application toward payment of the obligations under the Agreement and under this Guarantee may be applied in any manner or order deemed appropriate by Franchisor. In addition, if any of the undersigned ceases to be a member of the Control Group, a 10% Owner, an officer or director of Franchisee or own any interest in Franchisee or the Restaurant, that person agrees that the obligations under this Guarantee shall continue to remain in force and effect unless Franchisor in its sole discretion, in writing, releases those person(s) from this Guarantee. Notwithstanding the provisions of the previous sentence, unless prohibited by applicable law, the obligations contained in Section 15.2 (Restrictions on Competition) of the Agreement shall remain in force and effect for a period of two (2) years after any such release by Franchisor. A release by Franchisor of any of the undersigned shall not affect the obligations of any other Guarantor.

If Franchisor brings an action to enforce this Guarantee in a judicial proceeding, the prevailing party in such proceeding shall be entitled to reimbursement of its costs and expenses, including, but not limited to, reasonable accountants', attorneys', attorneys' assistants' and expert witness fees, cost of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses, whether incurred prior to, in preparation for or in contemplation of the filing of any such proceeding. In any judicial proceeding, these costs and expenses shall be determined by the court and not by a jury.

If Franchisor utilizes legal counsel (including in-house counsel employed by Franchisor or its affiliates) in connection with any failure by the undersigned to comply with this Guarantee, the undersigned shall reimburse Franchisor for any of the above-listed costs and expenses incurred by it.

If any of the following events occur, a default ("Default") under this Guarantee shall exist: (1) failure of timely payment or performance of the obligations under this Guarantee; (2) breach of any agreement or representation contained or referred to in this Guarantee; (3) the dissolution of, termination of existence of, loss of good standing status by, appointment of a receiver for, assignment for the benefit of creditors of, or the commencement of any insolvency or bankruptcy proceeding by or against, any of the undersigned; and/or (4) the entry of any monetary judgment or the assessment against, the filing of any tax lien against, or the issuance of any writ of garnishment or attachment against any property of or debts due any of the undersigned. If a Default occurs, the obligations of the undersigned shall be due immediately and payable without notice. Upon the death of one of the undersigned, the estate shall be bound by this Guarantee for all obligations existing at the time of death. The obligations of the surviving Guarantors shall continue in full force and effect.

This Guarantee shall inure to the benefit of and be binding upon the parties and their respective heirs, legal representatives, successors and assigns. Franchisor's interests in and rights under this Guarantee are freely assignable, in whole or in part, by Franchisor. Any assignment shall not release the undersigned from this Guarantee.

Section 26 (Disputes) of the Agreement is incorporated by reference into this Guarantee and all capitalized terms that are not defined in this Guarantee shall have the meaning given them in the Agreement.

[Signature page follows.]

IN WITNESS WHEREOF, each of the undersigned has hereunto affixed his or her signature.

GUARANTORS:

Date: _____

Printed Name: _____

Home Address: _____

Date: _____

Printed Name: _____

Home Address: _____

EXHIBIT D
TO
MODERN MARKET EATERY FRANCHISE AGREEMENT
CONDITIONAL ASSIGNMENT AND POWER OF ATTORNEY
TELEPHONE AND ON-LINE NUMBER AND LISTING

This CONDITIONAL ASSIGNMENT AND POWER OF ATTORNEY (“*Assignment*”) is made by and between Modern Market Franchising, LLC (“*Franchisor*”) and _____ (“*Franchisee*”) and shall be effective as of the Effective Date on the signature page of this Assignment.

FOR VALUE RECEIVED, and pursuant to Franchisee’s obligations under the Modern Market Eatery Franchise Agreement dated _____, 20__ by and between Franchisor and Franchisee (the “*Franchise Agreement*”), Franchisee hereby assigns to Franchisor all of Franchisee’s right, title and interest in and to those certain telephone numbers and regular, classified or other telephone and on-line directory listings (collectively, the “*Numbers and Listings*”) used from time to time in connection with Franchisee’s operations under the Franchise Agreement.

1. Assignment.

(a) Upon termination or expiration of the Franchise Agreement (without renewal or extension), Franchisor will have the right (and Franchisor is hereby empowered) to implement this Assignment, and, in such event, Franchisee will have no further right, title or interest in the Numbers and Listings but will remain liable to the telephone company and/or the listing agencies with which Franchisee has placed listings (all such entities are collectively referred to herein as the “*Company*”) for all past due fees owing to the Company on or before the effective date of this Assignment.

(b) Franchisee acknowledges and agrees that as between Franchisor and Franchisee, upon termination or expiration of the Franchise Agreement (without renewal or extension), Franchisor will have the sole right to and interest in the Numbers and Listings.

2. Power of Attorney.

(a) Franchisee appoints Franchisor as Franchisee’s true and lawful attorney in fact to direct the Company to assign same to Franchisor (or to the party Franchisor designates) and execute such documents and take such actions as may be necessary to effectuate the assignment. Upon such event, Franchisee will immediately notify the Company to assign the Numbers and Listings to Franchisor (or Franchisor’s designee). If Franchisee fails to promptly direct the Company to assign the Telephone Numbers and Listings to Franchisor (or Franchisor’s designee), Franchisor may direct the Company to effectuate the assignment contemplated hereunder to Franchisor (or Franchisor’s designee).

(b) The parties agree that the Company may accept Franchisor’s written direction, the Franchise Agreement or this Assignment as conclusive proof of Franchisor’s exclusive rights in and to the Numbers and Listings upon such termination or expiration (without renewal or extension) and that such assignment will be made automatically and immediately effective upon the Company’s receipt of such notice from Franchisor or Franchisee.

(c) The parties further agree that if the Company requires that the parties execute the Company's assignment forms or other documentation at the time of termination or expiration (without renewal or extension) of the Franchise Agreement, Franchisor's execution of such forms or documentation on behalf of Franchisee will be sufficient to document that Franchisee has given its consent and agreement to the assignment.

(d) The parties agree that at any time after the date hereof, they will perform such acts and execute and deliver such documents as may be necessary to assist in or accomplish the assignment described herein upon termination or expiration (without renewal or extension) of the Franchise Agreement.

This Assignment will inure to the benefit of Franchisor and will be binding upon Franchisee and its successors and assigns.

IN WITNESS WHEREOF, the parties to this Assignment have executed and delivered this Assignment effective as of the Effective Date referenced below.

FRANCHISOR:

MODERN MARKET FRANCHISING, LLC,
a Delaware limited liability company

FRANCHISEE:

If a corporation, partnership, or limited liability company, print name of business entity on the line below:

By:
Name:
Title:

By: _____
Name: _____
Title: _____

Effective Date:

If Franchisee is one or more individuals:

(Print Name):

Date: _____

(Print Name):

Date: _____

EXHIBIT E
TO
MODERN MARKET EATERY FRANCHISE AGREEMENT

FORM OF ADDENDUM TO LEASE

This ADDENDUM is executed as of this ____ day of _____, 20__, by and between _____ (“**Franchisee**”) and _____ (“**Landlord**”), as an addendum to the lease, as modified, amended, supplemented, renewed and/or extended from time to time as contemplated herein, (“**Lease**”) for the premises located at _____, State of _____ (“**Premises**”) dated as of _____, 20__.

Franchisee has entered into a Modern Market Eatery Franchise Agreement (“**Franchise Agreement**”) with Modern Market Franchising, LLC (“**Franchisor**”) for the development and operation of a Modern Market Eatery restaurant at the Premises, and as a requirement thereof, the lease for the Premises must contain the provisions contained in this Addendum.

Landlord and Franchisee agree that the terms contained herein shall supersede any terms to the contrary set forth in the Lease.

NOW THEREFORE, in consideration of mutual covenants set forth herein, the execution and delivery of the Lease, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Franchisee hereby agree as follows:

1. The Premises shall be used solely for a Modern Market Eatery Restaurant.
2. The term of the Lease (including the initial term and all renewal terms) must be for an aggregate term of at least ten (10) years.
3. Landlord shall deliver to Franchisor a copy of any notice of default or termination of the Lease at the same time such notice is delivered to Franchisee. Landlord shall provide to Franchisor any information relating to the Premises and the Lease as reasonably requested by Franchisor.
4. Franchisee hereby assigns to Franchisor, with Landlord’s irrevocable and unconditional consent, all of Franchisee’s rights, title and interests to and under the Lease upon any termination or non-renewal of the Franchise Agreement, but no such assignment shall be effective unless: (a) the Franchise Agreement is terminated or expires without renewal; (b) Franchisor has exercised its option to acquire the Premises under the Franchise Agreement; and (c) Franchisor notifies the Franchisee and Landlord in writing that Franchisor assumes Franchisee’s obligations under the Lease.
5. Franchisor shall have the right, but not the obligation, upon giving written notice of its election to Franchisee and Landlord, to cure any breach of the Lease and, if so stated in the notice, to also succeed to Franchisee’s rights, title and interests thereunder. In addition, Franchisee shall have the right at any time during the term of the Lease to assign the Lease to Franchisor by providing 10 days written notice to Landlord, and such assignment shall not require Landlord’s consent and no assignment fee shall be due.
6. The Lease may not be modified, amended, supplemented, renewed, extended or assigned by Franchisee without Franchisor’s prior written consent.

7. Franchisee and Landlord acknowledge and agree that Franchisor shall have no liability or obligation whatsoever under the Lease unless and until Franchisor assumes the Lease in writing pursuant to Section 4 or Section 5, above.

8. If Franchisor assumes the Lease, as provided above, Franchisor may, without Landlord's prior consent, further assign the Lease to a franchisee of Franchisor to operate the Modern Market Eatery restaurant at the Premises provided that the following criteria are met: (a) Franchisor has an established franchising program for Modern Market Eatery restaurants; and (b) the proposed franchisee has met all of Franchisor's applicable program criteria and requirements and has executed Franchisor's standard franchise agreement. Landlord agrees to execute such further documentation to confirm its consent to the assignment permitted under this Addendum as Franchisor may reasonably request. Upon such assignment to a franchisee of Franchisor, Franchisor shall be released from any further liability under the terms and conditions of the Lease.

9. Landlord and Franchisee hereby acknowledge that Franchisee has agreed under the Franchise Agreement that Franchisor and its employees or agents shall have the right to enter the Premises for certain purposes. Landlord hereby agrees not to interfere with or prevent such entry by Franchisor, its employees or agents. Landlord and Franchisee hereby further acknowledge that in the event the Franchise Agreement expires (without renewal) or is terminated and Franchisor does not assume the Lease in writing pursuant to Section 4 or Section 5, Franchisee is obligated to take certain steps under the Franchise Agreement to de-identify the Premises as a Modern Market Eatery restaurant. Landlord agrees to permit Franchisee to take such action; provided that, if Franchisee fails to do so, Landlord shall permit Franchisor, its employees or agents, to enter the Premises and remove signs (both interior and exterior), décor and materials displaying any marks, designs or logos owned by Franchisor, provided Franchisor shall bear the expense of repairing any damage to the Premises as a result thereof.

10. Landlord and Franchisee agree that if Landlord is an affiliate or an owner of Franchisee and Landlord proposes to sell the Premises, prior to the sale of the Premises, the Lease upon the request of Franchisor shall be amended to reflect a rental rate and other terms that are the reasonable and customary rental rates and terms prevailing in the community where the Modern Market Eatery restaurant is located.

11. Franchisor, along with its successors and assigns, is an intended third party beneficiary of the provisions of this Addendum.

12. Copies of any and all notices required or permitted hereby or by the Lease shall also be sent to Franchisor at _____ or such other address as Franchisor shall specify by written notice to Landlord.

13. Under the Franchise Agreement, any lease for the location of a Modern Market Eatery restaurant is subject to Franchisor's approval with regards to the terms and conditions that affect Franchisor, and Franchisor expressly disclaims any other connotations either expressed or implied as to the other terms and conditions set forth in the Lease that are negotiated between Landlord and Franchisee. Accordingly, the Lease is contingent upon such approval, and Franchisor shall provide written notice to Landlord and Franchisee to evidence such approval, as applicable.

[Signature page follows.]

WITNESS the execution hereof under seal.

LANDLORD:

FRANCHISEE:

[NAME]

[NAME]

By:
Name:
Title:

By:
Name:
Title:

Date:

Date:

Subscribed and sworn to before me this ____ day
of _____, 20__.

Subscribed and sworn to before me this ____ day
of _____, 20__.

Notary Public

Notary Public

My Commission expires:

My Commission expires: _____

EXHIBIT F
TO
MODERN MARKET EATERY FRANCHISE AGREEMENT

FORM OF NON-DISCLOSURE AND NON-COMPETITION AGREEMENT

(to be signed by franchisee and its personnel)

This NON-DISCLOSURE AND NON-COMPETITION AGREEMENT (this “**Agreement**”) is made this ____ day of _____, 20__, by and between _____ (“**Franchisee**”) and _____, who is an owner, director, officer, manager, member, partner, or a person in a managerial position with, Franchisee (the “**Member**”).

RECITALS:

WHEREAS, Modern Market Franchising, LLC (“**Franchisor**”) owns a format and system (the “**System**”) relating to the establishment and operation a Modern Market Eatery restaurant;

WHEREAS, Franchisor identifies Modern Market Eatery Restaurants by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin, including the mark “Modern Market Eatery” and such other trade names, service marks, and trademarks as Franchisor may hereafter designate for use in connection with the System (the “**Proprietary Marks**”);

WHEREAS, Franchisor and Franchisee have executed a Modern Market Eatery Franchise Agreement (“**Franchise Agreement**”) granting Franchisee the right to operate a Modern Market Eatery restaurant (the “**Restaurant**”) located at _____ (the “**Premises**”) and to use the Proprietary Marks in connection therewith under the terms and conditions of the Franchise Agreement; and

WHEREAS, the Member, by virtue of his or her position with Franchisee, will gain access to certain of Franchisor’s Confidential Information, as defined herein, and must therefore be bound by the same confidentiality and non-competition agreement that Franchisee is bound by.

NOW THEREFORE, IN CONSIDERATION of these premises, the conditions stated herein, and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1. **Confidential Information.** Member shall not, during the term of the Franchise Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, entity, association, or corporation any confidential information, knowledge, or know-how concerning the methods of operation of the business franchised thereunder which may be communicated to Member or of which Member may be apprised by virtue of Franchisee’s operation under the terms of the Franchise Agreement. Any and all information, knowledge, know-how, and techniques which Franchisor designates as confidential shall be deemed confidential for purposes of this Agreement, except information which Member can demonstrate came to his or her attention before disclosure thereof by Franchisor; or which, at or after the time of disclosure by Franchisor to Franchisee, had become or later becomes a part of the public domain, through publication or communication by others.

2. Covenants Not to Compete.

(a) Member specifically acknowledges that, pursuant to the Franchise Agreement, and by virtue of his/her position with Franchisee, Member will receive valuable specialized training and confidential information, including, without limitation, information regarding the operational, sales, promotional, and marketing methods and techniques of Franchisor and the System.

(b) Member covenants and agrees that during the term of Member's employment with, or ownership interest in Franchisee, except as otherwise approved in writing by Franchisor, Member shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity:

(1) Own, maintain, operate, engage in, grant a franchise to, advise, help, make loans to, lease property to or have any interest in, either directly or indirectly, any "**Competing Business**", which is defined as a restaurant business: (1) that has freshly prepared menu items as a primary menu item (i.e., sales that comprise at least twenty percent (20%) of the business's sales) or that offers any individual menu item that comprises at least twenty percent (20%) of sales at Modern Market Eatery Restaurants; or (2) whose method of operation or trade dress is similar to that employed in the System; or

(2) Divert or attempt to divert any present or prospective business or guest to any Competing Business by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Proprietary Marks and the System.

(c) During the term of Member's employment with or ownership interest in Franchisee, there is no geographical limitation on the restrictions contained in this Section 2. Member covenants and agrees that during the continuous uninterrupted period of two years from the termination of Member's employment with and/or transfer of Member's ownership interest in Franchisee, except as otherwise approved in writing by Franchisor, Member shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity, own, maintain, operate, engage in, or have any interest in any Competing Business which is, or is intended to be, located at the Premises, within three (3) miles of the Premises, or within a three (3) mile radius around any then-existing Modern Market Eatery restaurant operating under the System.

3. Injunctive Relief. Member acknowledges that any failure to comply with the requirements of this Agreement will cause Franchisor irreparable injury, and Member agrees to pay all costs (including without limitation reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) incurred by Franchisor in obtaining specific performance of, or an injunction against violation of, the requirements of this Agreement.

4. Severability. All agreements and covenants contained herein are severable. If any of them, or any part or parts of them, shall be held invalid by any court of competent jurisdiction for any reason, then the Member agrees that the court shall have the authority to reform and modify that provision in order that the restriction shall be the maximum necessary to protect Franchisor's and/or Member's legitimate business needs as permitted by applicable law and public policy. In so doing, the Member agrees that the court shall impose the provision with retroactive effect as close as possible to the provision held to be invalid.

5. Delay. No delay or failure by Franchisor or Franchisee to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right provided herein, and no waiver of any violation of any terms and provisions of this Agreement shall be construed as a waiver of any succeeding violation of the same or any other provision of this Agreement.

6. Third-Party Beneficiary. Member hereby acknowledges and agrees that Franchisor is an intended third-party beneficiary of this Agreement with the right to enforce it, independently or jointly with Franchisee.

IN WITNESS WHEREOF, the Franchisee and the Member attest that each has read and understands the terms of this Agreement, and voluntarily signed this Agreement on the date first written above.

FRANCHISEE:

[NAME]

By:

Name:

Title:

Date: _____

MEMBER:

[NAME]

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT G TO MODERN MARKET EATERY FRANCHISE AGREEMENT

ACH AUTHORIZATION FORM

RESTAURANT LOCATION: _____

DEPOSITOR (NAME OR LEGAL ENTITY): _____

The undersigned depositor ("Depositor") hereby authorizes **Modern Market Franchising, LLC** ("Franchisor") to initiate debit entries and credit correction entries to Depositor's checking or savings account indicated below and Depositor hereby authorizes the depository designated below ("Bank") to debit or credit such account pursuant to Franchisor's instructions. This authorization is to remain in full force and effect until 60 days after Franchisor has received written notification from Depositor of its termination.

DEPOSITOR INFORMATION

Depositor Name:
Mailing Address:
City/ State/ Zip Code:
Telephone:
Email:

DEBITING BANK ACCOUNT INFORMATION

Bank Name:
City / State / Zip Code:
Branch:
Account Number to Debit:
Routing Number (9 digit #):
Account Name:

The undersigned representative of Depositor represents and warrants to Franchisor and the Bank that the person executing this ACH Authorization Form is an authorized signatory on the account referenced above and all information regarding the account is true and accurate.

Depositor By: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT C

MANUAL TABLE OF CONTENTS

Total of 143 pages

Table of Contents

Chapter 1: General Information	1
1. The Purpose of the Manual.....	2
2. The Franchise Defined	4
Chapter 2: The Brand	5
1. <i>Modern Market Eatery</i> Core Values.....	6
Chapter 3: Franchise Agreement Compliance Processes	8
1. Overview	9
2. The Franchisee/Franchisor Relationship.....	10
2.1. Independent Contractor	10
2.2. Independently Owned and Operated	10
2.3. You Are Owner of This Business.....	11
3. Our Responsibilities as Franchisor	12
3.1. Pre-opening Obligations.....	12
3.2. Continuing Obligations.....	14
4. Your Obligations as a Franchisee	16
4.1. Participation in the Business	16
4.2. Training Completion.....	17
4.2.1. Manager in Training	17
4.2.2. Training Your Employees.....	18
4.2.3. Train the Trainer.....	18
4.2.4. Additional Training	19
4.2.5. Meetings	20
4.3. Pricing.....	20
4.3.1. Price Fixing	20
4.4. Compliance.....	21
4.4.1. <i>Modern Market Eatery</i> Brand Standards	21
4.4.2. Compliance with the Law	21
4.4.3. PCI DSS Compliance & Privacy Laws.....	21
4.5. Approved Products & Services	22
4.6. Payment of Fees and Taxes	22
4.7. Confidentiality.....	22
4.8. Insurance	23
4.9. Site Development.....	24
4.9.1. Updates	24
4.9.2. Opening.....	24
4.9.3. Computers, Software and Technology.....	24
4.10. Use of Marks and Proprietary Information	25

4.11. Books, Records & Reports	25
4.12. Audits & Inspections	26
4.12.1. Compliance Audits	26
4.12.2. Financial Audits	26
4.13. Local Marketing.....	27
4.14. Loyalty & Gift Card Programs.....	29
Chapter 4: Onboarding	30
1. Creating Your Business.....	31
1.1. Establishing a Business Entity.....	31
1.2. Allowable Use of the Name.....	31
1.2.1. Sample Business Names	31
1.3. Tax Identification Numbers	32
2. Licensing, Certificates and Permits	33
2.1. Sales Tax Certificates/Resellers License	33
2.2. Food Service Certificates.....	33
2.3. Beer/Wine License	33
2.4. Local Requirements.....	34
Chapter 5: Brand Operating Standards.....	35
1. The Importance of Standards.....	36
2. Approved Services and Products	37
2.1. Approved Food Services.....	38
2.1.1. Spec Sheets & Plating.....	38
2.1.2. Food Service	38
2.1.3. Core Recipe Book	39
2.2. Catering and Other Off-Premises Programs.....	39
2.2.1. Fundraisers	39
2.3. Delivery	40
2.4. Online Ordering.....	40
2.5. Menus	40
3. Facility Standards	41
3.1. Menu Boards.....	41
3.2. FF&E Requirements.....	41
3.3. Wine & Beer	41
3.4. Tables, Chairs & Booths.....	41
3.5. Floors.....	41
3.6. Walls & Wall Graphics	42
3.7. Order Line.....	42
3.7.1. Sneeze Guard	42
3.7.2. Back Line	42

3.7.3. Vent Hoods & All Visible Equipment	43
3.8. Doors, Windows & Mirrors	43
3.9. Lighting.....	43
3.10. Greenery	43
3.11. Ceilings	44
3.12. Beverage Center.....	44
3.13. Coffee, Condiments & Supplies.....	44
3.14. Trays & Trash.....	44
3.15. Restrooms	45
3.16. Wi-Fi & Music.....	45
3.17. Signage	45
3.18. Cash Area	46
3.18.1. Retail Merchandise & Shelving	46
3.18.2. Tip Jars	46
3.19. Kitchen	46
3.19.1. SDS Sheets.....	47
3.20. Facilities Maintenance Standards	47
4. Product Nutritional Guides Standards	48
4.1. Allergen Guidelines	48
5. Hospitality Standards	49
5.1. Steps of Service & Hospitality	49
5.1.1. Greeting.....	49
5.1.2. Ordering & Send Off.....	50
5.1.3. Food Pick Up/Table Delivery	50
5.1.4. Table Clearing.....	51
5.1.5. Table Checks.....	51
5.2. Alcoholic Beverage Service Compliance.....	51
5.3. Smoking.....	51
5.4. Service Animals	51
6. Hours of Operation	53
6.1. Regular Hours.....	53
6.2. Holiday Hours.....	53
7. Uniform and Appearance Standards.....	54
7.1. Uniform	54
7.2. Appearance & Hygiene.....	54
7.2.1. Jewelry	54
7.2.2. Hair	54
7.2.3. Nails.....	54
7.2.4. General Hygiene	54
8. Vehicle Standards	56

9. Food Production.....	57
9.1. Production Planning	57
9.1.1. Equipment & Tools.....	57
9.1.2. Line Checks.....	57
9.1.3. Portioning.....	57
9.1.4. TATT	58
9.2. Waste Log.....	58
9.3. Walk In Organization	58
10. Standards Variances.....	60
10.1. How to Request a Variance	60
11. Operating Routines	61
11.1. Cash Routines.....	61
11.2. Routines	61
11.3. Guest Recovery	62
11.3.1. B.L.A.S.T.	62
11.3.2. Refunds	64
Chapter 6: Staffing Best Practices.....	65
1. Overview and Disclaimer	66
2. Laws & Requirements	67
3. Staffing Obligations.....	68
3.1. General Manager	68
3.2. Adequate Staff	68
4. Suggested Job Descriptions.....	69
4.1. Elements of a Job Description	69
4.2. Recommended Positions and Responsibilities.....	70
4.2.1. General Manager	70
4.2.2. Assistant Manager.....	71
4.2.3. Shift Leaders.....	72
4.2.4. Front Line Employees.....	73
5. Hiring Resources & Tools	77
5.1. Help Wanted Ads	78
6. Staffing Best Practices.....	79
6.1. Setting Expectations.....	79
6.1.1. Forecasting.....	79
6.2. Schedules	80
6.2.1. Schedule Management	80
Chapter 7: Food Safety.....	81
1. Overview	82
2. Health Regulations and Sanitation Standards.....	83

2.1. ServSafe.....	83
3. Foodborne Illness.....	84
3.1. About Foodborne Illness	84
3.2. Foodborne Illness Complaints.....	84
Cross-Contamination	87
4. Time and Temperature	88
5. Food Safety Hazards.....	89
5.1. Biological Hazards	89
5.2. Chemical Hazards	89
5.3. Physical Hazards.....	90
6. Hazard Analysis & Critical Control Points (HACCP)	91
7. Health Department Inspections.....	92
Chapter 8: Emergencies, Accidents & Security.....	93
1. Fire	94
1.1. Prevention Guidelines	94
1.1.1. During a Fire	95
1.1.2. After A Fire	96
2. Power Outage or Equipment Failure.....	97
2.1. Protecting Food.....	97
3. Temporary Public Safety Closure	99
3.1. Boil Water Notice	99
4. Severe Weather or Natural Disaster	101
5. Emergency Closings	102
5.1. After the Emergency Has Passed	102
6. Talking to the Media	104
7. Accidents.....	105
7.1. Accident Prevention	105
7.1.1. Slips & Falls.....	105
7.1.2. Cuts	106
7.1.3. Burns	106
7.1.4. Back Injury Prevention	106
7.2. First Aid Kit	107
7.3. Biohazard Kit	107
7.4. Heimlich Maneuver and CPR.....	107
8. Security	109
8.1. Crimes	109
8.1.1. Burglary	109
8.1.2. Vandalism.....	109
8.1.3. Robbery	110

8.1.4. Internal Theft	111
8.1.5. Counterfeit Currency.....	111
8.1.6. Suspicious Behavior.....	112
8.1.7. Disorderly Guests or Employees	112
8.2. Suggested Security Procedures	112
8.2.1. Front and Back Doors	113
8.2.2. Closing Procedures.....	114
Chapter 9: Administration.....	115
1. Overview	116
2. Key Performance Indicators.....	117
2.1. Profit Centers	117
2.2. Sales	117
2.2.1. Ticket Count	117
2.2.2. Average Check.....	118
2.3. Food and Beverage Sales.....	118
3. Costs.....	119
4. Managing Prime Costs	120
4.1. Prime Cost Concept.....	120
4.2. Calculating Prime Cost	120
5. Food Cost Controls.....	121
5.1. Food Costs	121
5.2. Determining Costs & Percentages.....	121
5.3. Control Best Practices	122
6. Effective Scheduling	123
6.1. Calculating Labor Costs	123
7. Managing the Numbers	124
7.1. POS Reports.....	124
7.1.1. Daily.....	124
7.2. Weekly.....	124
7.3. Monthly.....	124
8. Inventory Management	125
8.1. FIFO	125
8.2. Storage	125
8.2.1. Importance of Storage	126
8.2.2. The Storage Process	126
8.2.3. Storage Tips.....	126
8.3. Purchasing, Ordering & Receiving	127
8.4. Ordering Goods	128
8.5. Receiving Goods.....	129

8.6. Returning Goods 129

Total: 143 pages.

EXHIBIT D
FINANCIAL STATEMENTS

THESE FINANCIAL STATEMENTS ARE PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED HIS OR HER OPINION WITH REGARD TO THEIR CONTENT OR FORM.

MODERN MARKET FRANCHISING, LLC
BALANCE SHEET
(Unaudited)

April 14, 2024

ASSETS

Current assets - Accounts and other receivables, net

\$ 27,000

Total Assets

\$ 27,000

LIABILITIES AND MEMBER'S EQUITY

Current liabilities:

Current liabilities - Current portion of deferred revenue and other

\$ 73,000

Other long-term liabilities - Deferred revenue, net of current portion

568,000

Total liabilities

641,000

Member's equity

(614,000)

Total liabilities and member's equity

\$ 27,000

MODERN MARKET FRANCHISING, LLC
STATEMENT OF OPERATIONS
(Unaudited)

	28-Weeks Ended
	April 14, 2024
	<hr/>
Net Sales:	
Franchise royalties	\$ 212,000
Brand fund revenue	41,000
Franchise fees and other	9,000
Total net sales	<hr/> 262,000
Operating Expenses:	
Brand fund expenses	14,000
Management fees	27,000
Total expenses	<hr/> 41,000
Net Income	<hr/> <hr/> \$ 221,000

Modern Market Franchising, LLC

(a wholly owned subsidiary of ModMarket, LLC)

Financial Report

October 1, 2023

Independent Auditor's Report	1-2
Financial Statements	
Balance Sheet	3
Statement of Operations	4
Statement of Member's (Deficit) Equity	5
Statement of Cash Flows	6
Notes to Financial Statements	7-9

Independent Auditor's Report

To the Member
Modern Market Franchising, LLC

Opinion

We have audited the financial statements of Modern Market Franchising, LLC (the "Company"), which comprise the balance sheet as of October 1, 2023; October 2, 2022; and December 31, 2021 and the related statements of operations, member's (deficit) equity, and cash flows for the year ended October 1, 2023; the period from January 1, 2022 through October 2, 2022; and the year ended December 31, 2021, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Company as of October 1, 2023; October 2, 2022; and December 31, 2021 and the results of its operations and its cash flows for the year ended October 1, 2023; the period from January 1, 2022 through October 2, 2022; and the year ended December 31, 2021 in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audits of the Financial Statements* section of our report. We are required to be independent of the Company and to meet our ethical responsibilities in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

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

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern within one year after the date that the financial statements are issued or available to be issued.

Auditor's Responsibilities for the Audits of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and, therefore, is not a guarantee that audits conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

To the Member
Modern Market Franchising, LLC

In performing audits in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audits.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audits in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audits, significant audit findings, and certain internal control-related matters that we identified during the audits.

Plante & Moran, PLLC

January 22, 2024

Modern Market Franchising, LLC

Balance Sheet

	October 1, 2023	October 2, 2022	December 31, 2021
Assets			
Current Assets			
Cash	\$ -	\$ 720,000	\$ 100,000
Accounts receivable - Net	36,253	40,731	-
Total assets	<u>\$ 36,253</u>	<u>\$ 760,731</u>	<u>\$ 100,000</u>
Liabilities and Member's Equity (Deficit)			
Current Liabilities - Current portion of deferred revenue	\$ 12,000	\$ 12,000	\$ -
Other Long-term Liabilities - Deferred revenue - Net of current portion	595,178	607,178	-
Total liabilities	607,178	619,178	-
Member's Equity (Deficit)	<u>(570,925)</u>	<u>141,553</u>	<u>100,000</u>
Total liabilities and member's equity (deficit)	<u>\$ 36,253</u>	<u>\$ 760,731</u>	<u>\$ 100,000</u>

Statement of Operations

	Year Ended October 1, 2023	Period Ended October 2, 2022	Year Ended December 31, 2021
Net Sales			
Franchise fees	\$ 12,000	\$ 822	\$ -
Franchise royalties	427,013	33,942	-
Brand fund revenue	85,318	6,789	-
Total net sales	524,331	41,553	-
Operating Expenses			
Management fees	50,000	37,671	50,000
Marketing expenses	33,684	-	-
Total operating expenses	83,684	37,671	50,000
Net Income (Loss)	\$ 440,647	\$ 3,882	\$ (50,000)

Modern Market Franchising, LLC

Statement of Member's (Deficit) Equity

Balance - January 1, 2021	\$	100,000
Net loss		(50,000)
Contributions		<u>50,000</u>
Balance - December 31, 2021		100,000
Net income		3,882
Contributions		<u>37,671</u>
Balance - October 2, 2022		141,553
Net income		440,647
Contributions		50,000
Distributions		<u>(1,203,125)</u>
Balance - October 1, 2023	\$	<u><u>(570,925)</u></u>

Statement of Cash Flows

	Year Ended October 1, 2023	Period Ended October 2, 2022	Year Ended December 31, 2021
Cash Flows from Operating Activities			
Net income (loss)	\$ 440,647	\$ 3,882	\$ (50,000)
Adjustments to reconcile net income (loss) to net cash from operating activities:			
Management fees forgiven	50,000	37,671	50,000
Changes in operating assets and liabilities that provided (used) cash:			
Accounts receivable	4,478	(40,731)	-
Deferred revenue	(12,000)	619,178	-
Net cash provided by operating activities	483,125	620,000	-
Cash Flows Used in Financing Activities - Member distributions	(1,203,125)	-	-
Net (Decrease) Increase in Cash	(720,000)	620,000	-
Cash - Beginning of period	720,000	100,000	100,000
Cash - End of period	<u>\$ -</u>	<u>\$ 720,000</u>	<u>\$ 100,000</u>

October 1, 2023; October 2, 2022; and December 31, 2021

Note 1 - Nature of Business

Modern Market Franchising, LLC (the "Company") is engaged in the business of selling franchises to own and operate a business that currently sells premium fast casual restaurants with a menu consisting of freshly prepared sandwiches, salads, plated dishes, soups, pizza, and beverages. These businesses are called Modern Market Eatery. The Company commenced operations on April 17, 2019 and is a wholly owned subsidiary of ModMarket, LLC.

The Company is part of a group of companies affiliated by common ownership. The operating results of the Company could vary significantly from those that would have occurred had the Company operated independently.

As of October 1, 2023 and October 2, 2022, the Company signed three franchise agreements and one area development agreement. The area development agreement provides for the opening of 41 locations over a six-year period throughout Kansas, Missouri, Iowa, Arkansas, Texas, North Carolina, and South Carolina. As of October 1, 2023 and October 2, 2022, there were 3 franchise operating locations.

Note 2 - Significant Accounting Policies

Basis of Presentation

The financial statements of the Company have been prepared on the basis of generally accepted accounting principles (GAAP). The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect amounts reported in the financial statements. Actual results could differ from those estimates.

Reporting Period

During 2022, the Company changed its year end from December 31 to a 52-/53-week fiscal year ending on the Sunday closest to September 30. As a result, the accompanying statements of operations, member's (deficit) equity, and cash flows present the activities of the Company for the year ended October 1, 2023; the period from January 1, 2022 through October 2, 2022 (the "period ended October 2, 2022"); and the year ended December 31, 2021.

Accounts Receivable

Accounts receivable consist primarily of royalty fees due from franchisees. The Company considers a reserve for doubtful accounts based on the creditworthiness of the franchisee. The allowance is management's best estimate of uncollectible amounts and is determined based on historical performance that is tracked by the Company on an ongoing basis. At October 1, 2023; October 2, 2022; December 31, 2021; and January 1, 2021, management determined that no allowance was necessary.

Revenue Recognition

The Company's revenue mainly consists of franchise fees, royalties, and brand fund revenue. The Company sells individual franchisees the right to operate a Modern Market Eatery location within a defined territory using the franchise brand name.

The Company has obligations to provide franchisees with the franchise rights to operate a Modern Market Eatery location, training, and site selection, as well as provide marketing and advertising for which fees are charged. The Company has concluded that these items represent a single performance obligation. Therefore, the initial franchise fee for each agreement is allocated to each individual franchise and recognized over the term of the respective franchise agreement, typically 10 years, beginning on the date the store is opened. Franchise fee revenue was \$12,000 and \$822, respectively, for the year ended October 1, 2023 and for the period ended October 2, 2022. There was no franchise fee revenue for the year ended December 31, 2021.

Notes to Financial Statements

October 1, 2023; October 2, 2022; and December 31, 2021

Note 2 - Significant Accounting Policies (Continued)

The Company also enters into area development agreements with franchisees. The development agreement is for a specified territory and requires an upfront development fee for each expected location, payable upon execution of the development agreement, with the balance of the full franchise fee for each location due upon lease execution. The number of units in the development agreement, the geographic territory outline, and the length of time that the franchisee has the exclusive right to develop those units vary by the territory and the agreement between the Company and the franchisee. The area development agreement is considered a part of the overall contract between the Company and the franchisee, as it is negotiated with a single commercial objective to open a specific number of locations in a defined geographic territory or market. These area development agreements represent an attribute of the franchise right (single performance obligation with the franchise right).

The Company's franchise agreements require the payment of various fixed and variable fees. Initial franchise fees are typically paid when a franchise agreement is executed and are nonrefundable. These fees are collected prior to the satisfaction of the Company's performance obligation, resulting in the Company recognizing deferred revenue contract liabilities. Royalties and marketing fees are paid on a monthly basis based upon a percentage of franchise gross sales. As of October 1, 2023 and October 2, 2022, accounts receivable were \$36,253 and \$40,731, respectively. There were no accounts receivable at December 31, 2021 or January 1, 2021. Deferred revenue at October 1, 2023 and October 2, 2022 was \$607,178 and \$619,178, respectively. There was no deferred revenue as of January 1, 2021.

The transaction price is the amount of consideration to which the Company expects to be entitled in exchange for providing franchisees the franchise rights to open and operate a restaurant. To determine the transaction price, the Company considers its customary business practices and the terms of the underlying agreement. For the purpose of determining transaction prices, the Company assumes performance obligations will be satisfied as promised in accordance with franchise agreements and that the agreements will not be canceled or modified.

The Company's franchise agreements with franchisees have transaction prices that contain a fixed and variable component. Variable consideration includes revenue related to royalties and marketing fees, as the transaction price is based on the franchisees' sales. The variable consideration is recognized based on the actual amounts earned each month. Royalty fees for the year ended October 1, 2023 and for the period ended October 2, 2022 were \$427,013 and \$33,942, respectively. There were no royalty fees for the year ended December 31, 2021.

Under the terms of the franchise agreements, the Company charges a fee of 1 percent of each franchisee's gross sales for marketing and advertising costs that benefit multiple franchisees and promote the brand. The Company recognizes this sales-based brand fund revenue as earned and recognizes the related marketing expenses as incurred. Brand fund revenue for the year ended October 1, 2023 and the period ended October 2, 2022 was \$85,318 and \$6,789, respectively. There was no brand fund revenue for the year ended December 31, 2021. The related marketing expenses were \$33,684 for the year ended October 1, 2023. There were no marketing expenses incurred for the period ended October 2, 2022 or the year ended December 31, 2021.

Income Taxes

The Company is treated as a partnership for federal income tax purposes. Consequently, federal income taxes are not payable or provided for by the Company. The member is taxed individually on the member's ownership of the Company's earnings. The Company's net income or loss is allocated to the member in accordance with the Company's operating agreement.

Subsequent Events

The financial statements and related disclosures include evaluation of events up through and including January 22, 2024, which is the date the financial statements were available to be issued.

October 1, 2023; October 2, 2022; and December 31, 2021

Note 3 - Member's Equity

The Company was formed through a contribution of cash from its sole member in the amount of \$100,000. During 2023, 2022, and 2021, the parent company provided services to the Company under a management fee arrangement, which was recognized as a contribution to the Company in the amount of \$50,000, \$37,671, and \$50,000, respectively.

Note 4 - Related Party Transactions

Management Fees

For the year ended October 1, 2023; the period ended October 2, 2022; and the year ended December 31, 2021, the Company incurred expenses related to management fees from its parent company, ModMarket, LLC (the "Parent"), of \$50,000, \$37,671, and \$50,000, respectively. Such management fees are intended to cover the expenses incurred by the Parent on its behalf, such as salaries and wages, training costs, and other general and administrative expenses.

Joint and Several Liabilities

The Company is jointly and severally liable for certain bank loans of MRC Intermediate, Inc., an entity that controls the Parent. In the event of a default by the affiliate, the Company, together with its affiliates, could be obligated to repay the full amount outstanding on these loans. As of October 1, 2023, the total principal amount of debt outstanding under such arrangement was approximately \$213 million. None of the indebtedness or related assets and liabilities have been recorded in the Company's financial statements since the Company does not have the intent, ability, or expectation to repay any amounts under such indebtedness. As of October 1, 2023, the Company is unaware of any circumstances that would require performance under this joint and several arrangement.

Subsequent to year end, in November 2023, this debt was refinanced and the Company is no longer jointly and severally liable for such debt.

EXHIBIT E

LIST OF STATE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS

LIST OF STATE ADMINISTRATORS

We intend to register this disclosure document as a “franchise” in some or all of the following states, if required by the applicable state laws. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, the following are the state administrators responsible for the review, registration, and oversight of franchises in these states:

<p>CALIFORNIA Commissioner of Financial Protection and Innovation Department of Financial Protection and Innovation 320 West Fourth Street, Suite 750 Los Angeles, California 90013-2344 (213) 576-7500 Toll Free: (866) 275-2677</p>	<p>NEW YORK New York State Department of Law Investor Protection Bureau 28 Liberty Street, 15th Floor New York, New York 10271-0332 (212) 416-8236</p>
<p>HAWAII Commissioner of Securities Department of Commerce & Consumer Affairs Business Registration Division Securities Compliance Branch 335 Merchant Street, Room 203 Honolulu, Hawaii 96813 (808) 586-2722</p>	<p>NORTH DAKOTA North Dakota Securities Department State Capitol Department 414 600 East Boulevard Avenue Fourteenth Floor Bismarck, North Dakota 58505-0510 (701) 328-4712</p>
<p>ILLINOIS Illinois Office of the Attorney General Franchise Bureau 500 South Second Street Springfield, Illinois 62706 (217) 782-4465</p>	<p>RHODE ISLAND Department of Business Regulation Securities Division, Building 68-2 Floor John O. Pastore Center 1511 Pontiac Avenue Cranston, Rhode Island 02920 (401) 222-3048</p>
<p>INDIANA Secretary of State Franchise Section 302 West Washington, Room E-111 Indianapolis, Indiana 46204 (317) 232-6681</p>	<p>SOUTH DAKOTA Division of Insurance Securities Regulation 124 South Euclid Avenue, Suite 104 Pierre, South Dakota 57501 (605) 773-3563</p>
<p>MARYLAND Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, Maryland 21202-2020 (410) 576-6360</p>	<p>VIRGINIA State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street, 9th Floor Richmond, Virginia 23219 (804) 371-9051</p>
<p>MICHIGAN Michigan Attorney General’s Office Corporate Oversight Division, Franchise Section 525 West Ottawa Street G. Mennen Williams Building, 1st Floor Lansing, Michigan 48913 (517) 335-7567</p>	<p>WASHINGTON Department of Financial Institutions Securities Division – 3rd Floor 150 Israel Road, Southwest Tumwater, Washington 98501 (360) 902-8760</p>
<p>MINNESOTA Minnesota Department of Commerce 85 7th Place East, Suite 280 St. Paul, Minnesota 55101-2198 (651) 539-1500</p>	<p>WISCONSIN Division of Securities 4822 Madison Yards Way, North Tower Madison, Wisconsin 53705 (608) 266-2139</p>

AGENTS FOR SERVICE OF PROCESS

We intend to register this disclosure document as a “franchise” in some or all of the following states, if required by the applicable state law. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, we will designate the following state offices or officials as our agents for service of process in these states. There may be states in addition to those listed below in which we have appointed an agent for service of process. There may also be additional agents in some of the states listed.

<p>CALIFORNIA Commissioner of the Department of Financial Protection and Innovation: Toll Free: 1 (866) 275-2677</p> <p>Los Angeles Suite 750 320 West 4th Street Los Angeles, California 90013-2344 (213) 576-7500</p> <p>Sacramento 2101 Arena Boulevard Sacramento, California 95834 (916) 445-7205</p> <p>San Diego 1455 Frazee Road, Suite 315 San Diego, California 92108 (619) 610-2093</p> <p>San Francisco One Sansome Street, Suite 600 San Francisco, California 94105-2980 (415) 972-8565</p>	<p>NEW YORK New York Secretary of State New York Department of State One Commerce Plaza, 99 Washington Avenue, 6th Floor Albany, New York 12231-0001 (518) 473-2492</p>
<p>HAWAII Commissioner of Securities Department of Commerce & Consumer Affairs Business Registration Division Securities Compliance Branch 335 Merchant Street, Room 203 Honolulu, Hawaii 96813 (808) 586-2722</p>	<p>NORTH DAKOTA North Dakota Securities Commissioner State Capitol 600 East Boulevard Avenue, Fifth Floor Bismarck, North Dakota 58505-0510 (701) 328-4712</p>
<p>ILLINOIS Illinois Attorney General 500 South Second Street Springfield, Illinois 62706 (217) 782-4465</p>	<p>RHODE ISLAND Director of Department of Business Regulation Department of Business Regulation Securities Division, Building 68-2 John O. Pastore Center 1511 Pontiac Avenue Cranston, Rhode Island 02920 (401) 462-9527</p>
<p>INDIANA Secretary of State Franchise Section 201 State House 200 West Washington Street Indianapolis, Indiana 46204 (317) 232-6681</p>	<p>SOUTH DAKOTA Division of Insurance Director of the Securities Regulation 124 South Euclid Avenue, Suite 104 Pierre, South Dakota 57501 (605) 773-4823</p>

<p>MARYLAND Maryland Securities Commissioner 200 St. Paul Place Baltimore, Maryland 21202-2021 (410) 576-6360</p>	<p>VIRGINIA Clerk of the State Corporation Commission 1300 East Main Street, 1st Floor Richmond, Virginia 23219 (804) 371-9733</p>
<p>MICHIGAN Department of Attorney General Corporate Oversight Division P.O. Box 30755 Lansing, Michigan 48909 (517) 373-7117</p>	<p>WASHINGTON Director of Department of Financial Institutions Securities Division – 3rd Floor 150 Israel Road, Southwest Tumwater, Washington 98501 (360) 902-8760</p>
<p>MINNESOTA Commissioner of Commerce Minnesota Department of Commerce 85 7th Place East, Suite 280 St. Paul, Minnesota 55101 (651) 539-1600</p>	<p>WISCONSIN Administrator, Division of Securities Department of Financial Institutions 345 West Washington Avenue Madison, Wisconsin 53703 (608) 266-8557</p>

EXHIBIT F
STATE ADDENDA

STATE SPECIFIC DISCLOSURES

ADDITIONAL DISCLOSURE DOCUMENT DISCLOSURES

REQUIRED BY THE STATE OF CALIFORNIA, HAWAII, ILLINOIS, INDIANA, MARYLAND, MICHIGAN, MINNESOTA, NEW YORK, NORTH DAKOTA, RHODE ISLAND, VIRGINIA, WASHINGTON AND WISCONSIN.

No Waiver of Disclaimer of Reliance in Certain States. The following provision applies only to franchisees and franchises that are subject to the state franchise disclosure laws in California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, Virginia, Washington and Wisconsin:

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDA REQUIRED BY
THE STATE OF ILLINOIS**

**ADDITIONAL DISCLOSURE DOCUMENT DISCLOSURES
REQUIRED BY THE STATE OF ILLINOIS**

Item 17. Additional Disclosures. The following statements are added to Item 17:

Illinois law governs the Franchise and Development Agreements.

In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.

Your rights upon Termination and Non-Renewal are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

In conformance with section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

For info about obtaining a liquor license in Illinois, see: <https://www.illinois.gov/ilcc/Pages/Forms-and-Applications.aspx>

For info about obtaining TIPS certification in Illinois, see: <https://www.tipscertified.com/tips-state-pages/Illinois>

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed with the franchise.

**ADDENDUM TO THE MODERN MARKET EATERY
AREA DEVELOPMENT AGREEMENT
REQUIRED FOR ILLINOIS DEVELOPERS**

This Addendum to the Modern Market Eatery Area Development Agreement dated _____ between Modern Market Franchising, LLC ("Modern Market") and _____ ("Developer") is entered into simultaneously with the execution of the Modern Market Eatery Area Development Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Modern Market Eatery Area Development Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to Developer was made in the State of Illinois; or **(B)** Developer is a resident of the State of Illinois; or **(C)** part or all of the Development Area is located in the State of Illinois.

2. Termination. The following sentence is added at the end of Section 7:

Notwithstanding the foregoing, Developer's rights upon termination and non-renewal are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

3. Choice of Law. The following sentence is added at the end of Section 13.1.:

Notwithstanding the foregoing, Illinois law shall govern this Agreement.

4. Choice of Forum. The following sentence is added to the end of Section 13.2.:

Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue in a forum outside of Illinois is void with respect to any cause of action that otherwise is enforceable in Illinois.

5. Representations. The following is added to the end of Section 15:

In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed with the franchise.

6. Miscellaneous. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Modern Market Eatery Area Development Agreement. Except as expressly modified by this Addendum, the Modern Market Eatery Area Development Agreement remains unmodified and in full force and effect. This Addendum may be executed in multiple counterparts, each of which when executed and delivered shall be deemed an original and all of which together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Addendum by facsimile and any other electronic transmission (including PDF) shall be as effective as delivery of a manually executed counterpart of this Addendum.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Effective Date.

FRANCHISOR:
Modern Market Franchising, LLC
a Delaware limited liability company

DEVELOPER: If a corporation, partnership, or limited liability company, print name of business entity on the line below:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Notice Address: 3001 Brighton Boulevard
Suite 701
Denver, CO 80216

Date: _____

Notice Address:

EFFECTIVE DATE: _____

If Developer is one or more individuals:
(Print Name):

Date: _____

(Print Name):

Date: _____

Notice Address:

**ADDENDUM TO THE MODERN MARKET EATERY
FRANCHISE AGREEMENT
REQUIRED FOR ILLINOIS FRANCHISEES**

This Addendum to the Modern Market Eatery Franchise Agreement dated _____ between Modern Market Franchising, LLC ("Modern Market") and _____ ("Franchisee") is entered into simultaneously with the execution of the Modern Market Eatery Franchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Modern Market Eatery Franchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of the franchise to Franchisee was made in the State of Illinois; or **(B)** Franchisee is a resident of the State of Illinois; or **(C)** the Restaurant will be located and/or operated, and/or all or part of the Protected Area will be located, in the State of Illinois.

2. Termination. The following sentence is added at the end of Section 19:

Notwithstanding the foregoing, Franchisee's rights upon termination and non-renewal are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

3. Choice of Law. The following sentence is added at the end of Section 26.1.:

Notwithstanding the foregoing, Illinois law shall govern this Agreement.

4. Choice of Forum. The following sentence is added to the end of Section 26.2.:

Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue in a forum outside of Illinois is void with respect to any cause of action that otherwise is enforceable in Illinois.

5. Representations. The following is added to the end of Section 28:

In conformance with section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed with the franchise.

6. Miscellaneous. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Modern Market Eatery Franchise Agreement. Except as expressly modified by this Addendum, the Modern Market Eatery Franchise Agreement remains unmodified and in full force and effect. This Addendum may be executed in multiple counterparts, each of which when executed and delivered shall be deemed an original and all of which together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Addendum by facsimile and any other electronic transmission (including PDF) shall be as effective as delivery of a manually executed counterpart of this Addendum.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Effective Date.

Modern Market Franchising, LLC
a Delaware limited liability company

By: _____
Print Name: _____
Title: _____
Notice Address: 3001 Brighton Boulevard
Suite 701
Denver, CO 80216

FRANCHISEE: If a corporation, partnership, or limited liability company, print name of business entity on the line below:

By: _____
Print Name: _____
Title: _____
Date: _____
Notice Address: _____

EFFECTIVE DATE: _____

If Franchisee is one or more individuals:

(Print Name) _____
Date: _____

(Print Name) _____
Date: _____
Notice Address: _____

**ADDENDA REQUIRED BY
THE STATE OF MARYLAND**

**ADDITIONAL DISCLOSURE DOCUMENT DISCLOSURES
REQUIRED BY THE STATE OF MARYLAND**

1. **Item 5. Initial Fees.** The following section is added at the end of Item 5:

Fee Deferral

Based upon our financial condition, the Maryland Securities Commissioner has required a financial assurance. Under the Franchise Agreement, all initial fees and payments you owe us must be deferred until we complete our pre-opening obligations under that Agreement. Under the Development Agreement, all initial fees and payments you owe us must be deferred until we complete our pre-opening obligations for the first Modern Market Eatery developed under that Agreement.

2. **Item 17. Additional Disclosures.** The following statements are added to Item 17:

The Franchise Agreement provides for termination upon bankruptcy. These provisions may not be enforceable under federal bankruptcy law.

Any provisions requiring you to sign a general release of claims against Modern Market, including upon execution of the Franchise Agreement, renewal or transfer, does not release any claim you may have under the Maryland Franchise Registration and Disclosure Law.

Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

Each provision of these Additional Disclosures shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently without reference to these Additional Disclosures.

**ADDENDUM TO THE MODERN MARKET EATERY
AREA DEVELOPMENT AGREEMENT
REQUIRED FOR MARYLAND DEVELOPERS**

This Addendum to the Modern Market Eatery Area Development Agreement dated _____ between Modern Market Franchising, LLC ("Modern Market") and _____ ("Developer") is entered into simultaneously with the execution of the Modern Market Eatery Area Development Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Modern Market Eatery Area Development Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to Developer was made in the State of Maryland; **(B)** Developer is a resident of the State of Maryland; and/or **(C)** part or all of the Development Area is located in the State of Maryland.

2. Fee Deferral. The following sentence is added to the end of Sections 2.1 (Area Development Fee):

Based upon our financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments Developer owes to Modern Market under this Agreement must be deferred until Developer opens its first Modern Market Eatery under this Agreement.

3. Choice of Law. The following sentence is added to the end of Section 13.1:

Notwithstanding the foregoing, the Maryland Franchise Registration and Disclosure Law shall govern any claim arising under that Law.

4. Choice of Venue. The following sentence is added to the end of Section 13.2:

Notwithstanding the foregoing, Developer may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

5. Statute of Limitations. The following sentence is added to the end of Section 13.3:

Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

6. Representations. The following sentences are added to the end of Section 15:

Section 14-226 of the Maryland Franchise Registration and Disclosure Law prohibits a franchisor from requiring a prospective franchisee to assent to any release, estoppel, or waiver of liability as a condition of purchasing a franchise. Any such representations in this Agreement are not intended to, nor shall they act as a release, estoppel, or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed with the franchise.

7. Miscellaneous. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Modern Market Eatery Area Development Agreement. Except as expressly modified by this Addendum, the Modern Market Eatery Area Development Agreement remains unmodified and in full force and effect. This Addendum may be executed in multiple counterparts, each of which when executed and delivered shall be deemed an original and all of which together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Addendum by facsimile and any other electronic transmission (including PDF) shall be as effective as delivery of a manually executed counterpart of this Addendum.

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Effective Date.

FRANCHISOR:
Modern Market Franchising, LLC
a Delaware limited liability company

DEVELOPER: If a corporation, partnership, or limited liability company, print name of business entity on the line below:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Notice Address: 3001 Brighton Boulevard
Suite 701
Denver, CO 80216

Date: _____

Notice Address:

EFFECTIVE DATE: _____

If Developer is one or more individuals:

(Print Name):

Date: _____

(Print Name):

Date: _____

Notice Address:

**ADDENDUM TO THE MODERN MARKET EATERY
FRANCHISE AGREEMENT
REQUIRED FOR MARYLAND FRANCHISEES**

This Addendum to the Modern Market Eatery Franchise Agreement dated _____ between Modern Market Franchising, LLC ("Modern Market") and _____ ("Franchisee") is entered into simultaneously with the execution of the Modern Market Eatery Franchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Modern Market Eatery Franchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to Franchisee was made in the State of Maryland; **(B)** Franchisee is a resident of the State of Maryland; and/or **(C)** the Restaurant will be located and/or operated in the State of Maryland.

2. Fee Deferral. The following sentence is added to the end of Sections 3.2.3 (Site Selection Assistance Fee), 4.1 (Franchise Fee), and 6.2 (Opening Team Fee):

Based upon Modern Market's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments Franchisee owes to Modern Market under this Agreement must be deferred until Modern Market completes its pre-opening obligations under this Agreement.

3. Releases. The following sentence is added to the end of Sections 16.4.4, 16.4.6, 17, and 18.3:

This release shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

4. Choice of Law. The following sentence is added to the end of Section 26.1:

Notwithstanding the foregoing, the Maryland Franchise Registration and Disclosure Law shall govern any claim arising under that Law.

5. Choice of Venue. The following sentence is added to the end of Section 26.2:

Notwithstanding the foregoing, Franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

6. Statute of Limitations. The following sentence is added to the end of Section 26.3:

Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

7. Representations. The following sentences are added to the end of Section 28:

Section 14-226 of the Maryland Franchise Registration and Disclosure Law prohibits a franchisor from requiring a prospective franchisee to assent to any release, estoppel, or waiver of liability as a condition of purchasing a franchise. Any such representations in this Agreement are not intended to, nor shall they act as a release, estoppel, or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed with the franchise.

8. Miscellaneous. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Modern Market Eatery Franchise Agreement. Except as expressly modified by this Addendum, the Modern Market Eatery Franchise Agreement remains unmodified and in full force and effect. This Addendum may be executed in multiple counterparts, each of which when executed and delivered shall be deemed an original and all of which together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Addendum by facsimile and any other electronic transmission (including PDF) shall be as effective as delivery of a manually executed counterpart of this Addendum.

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Effective Date.

Modern Market Franchising, LLC
a Delaware limited liability company

By: _____
Print Name: _____
Title: _____
Notice Address: 3001 Brighton Boulevard
Suite 701
Denver, CO 80216

FRANCHISEE: If a corporation, partnership, or limited liability company, print name of business entity on the line below:

By: _____
Print Name: _____
Title: _____
Date: _____
Notice Address: _____

EFFECTIVE DATE: _____

If Franchisee is one or more individuals:

(Print Name) _____
Date: _____

(Print Name) _____
Date: _____
Notice Address: _____

ADDENDUM REQUIRED BY

THE STATE OF MICHIGAN

**ADDITIONAL DISCLOSURE DOCUMENT DISCLOSURES
REQUIRED BY THE STATE OF MICHIGAN**

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

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

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

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

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

THE FACT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE ATTORNEY GENERAL.

ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO:

**MICHIGAN ATTORNEY GENERAL'S OFFICE
CORPORATE OVERSIGHT DIVISION
FRANCHISE SECTION
525 WEST OTTAWA STREET
G. MENNEN WILLIAMS BUILDING, 1ST FLOOR
LANSING, MICHIGAN 48913
(517) 335-7567**

ADDENDUM REQUIRED BY

THE STATE OF MINNESOTA

**ADDITIONAL DISCLOSURE DOCUMENT DISCLOSURES
REQUIRED BY THE STATE OF MINNESOTA**

1. **Item 5. Initial Fees.** The following section is added at the end of Item 5:

Fee Deferral

Based upon our financial condition, the Minnesota Department of Commerce has required a financial assurance. Under the Franchise Agreement, all initial fees and payments you owe us must be deferred until we complete our pre-opening obligations under that Agreement. Under the Development Agreement, all initial fees and payments you owe us must be deferred until we complete our pre-opening obligations for the first Modern Market Eatery developed under that Agreement.

2. **Item 7. Estimated Initial Investment.** The following section is added at the end of Item 7:

Fee Deferral

Based upon our financial condition, the Minnesota Department of Commerce has required a financial assurance. Under the Franchise Agreement, all initial fees and payments you owe us must be deferred until we complete our pre-opening obligations under that Agreement. Under the Development Agreement, all initial fees and payments you owe us must be deferred until we complete our pre-opening obligations for the first Modern Market Eatery developed under that Agreement.

3. **Trademarks.** The following statement is added to Item 13:

Notwithstanding the foregoing, Modern Market will indemnify you against liability to a third party resulting from claims that your use of a Proprietary Mark infringes trademark rights of a third party; provided, that we will not indemnify against the consequences of your use of the Proprietary Marks unless the use is in accordance with the requirements of the Franchise Agreement and the System.

4. **Notice of Termination.** The following statement is added to Item 17:

With respect to franchises governed by Minnesota law, Modern Market will comply with Minnesota Statute § 80C.14, subdivisions 3, 4, and 5 which requires, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the Franchise Agreement.

5. **Choice of Forum and Law.** The following statement is added to the State Cover Page and Item 17:

Minnesota Statute § 80C.21 and Minnesota Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document or agreements can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

6. **General Release.** The following statement is added to Item 17:

Minnesota Rule 2860.4400D prohibits us from requiring you to assent to a release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statute §§ 80C.01 - 80C.22.

7. **Waiver of Right to Jury Trial or Termination Penalties.** The following statement is added to Item 17:

Minnesota Rule 2860.4400J, among other things, prohibits us from requiring you to waive your rights to a jury trial or to consent to liquidated damages, termination penalties, or judgment notes; provided, that this part will not bar an exclusive arbitration clause.

**ADDENDUM TO THE MODERN MARKET EATERY
AREA DEVELOPMENT AGREEMENT
REQUIRED FOR MINNESOTA DEVELOPERS**

This Addendum to the Modern Market Eatery Area Development Agreement dated _____ between Modern Market Franchising, LLC ("Modern Market") and _____ ("Developer") is entered into simultaneously with the execution of the Modern Market Eatery Area Development Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into, the Modern Market Eatery Area Development Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to Developer was made in the State of Minnesota; **(B)** Developer is a resident of the State of Minnesota; and/or **(C)** part or all of the Development Area is located in the State of Minnesota.

2. Fee Deferral. The following sentence is added to the end of Section 2.1 (Area Development Fee):

Based upon our financial condition, the Minnesota Department of Commerce has required a financial assurance. Therefore, all initial fees and payments Developer owes to Modern Market under this Agreement must be deferred until Developer opens its first Modern Market Eatery under this Agreement.

3. Injunctive Relief. Section 5.5.1(9) is deleted and replaced with the following statement:

your use or duplication of the System or any part of the System in any other business, or disclosure of any part of the System to others for use or duplication in any other business, would constitute an unfair method of competition, for which we would be entitled to all legal and equitable remedies, including the right to seek injunctive relief. A court will determine if a bond or security must be posted.

4. Termination. The following sentence is added to the end of Section 7.4:

With respect to franchises governed by Minnesota law, Modern Market will comply with Minnesota Statute § 80C.14, Subdivisions 3, 4, and 5 which require, except in certain cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of this Agreement.

5. Choice of Venue. The following sentences are added to the end of Section 13.2:

Minnesota Statute § 80C.21 and Minnesota Rule 2860.4400J prohibit Modern Market from requiring litigation to be conducted outside Minnesota. In addition, nothing in our disclosure document or agreements can abrogate or reduce any of Developer's rights as provided for in Minnesota Statutes, Chapter 80C, or Developer's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

6. Waiver of Jury Trial. Section 13.6 is deleted and replaced with the following:

THE PARTIES IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO BRING, OR BE A CLASS MEMBER IN, ANY CLASS ACTION SUITS.

7. Injunctive Relief. The second sentence of Section 13.8 is deleted and replaced with the following sentence:

You acknowledge and agree that your failure to comply with the terms of this Agreement, including the failure to comply fully with all post-termination obligations, is likely to cause irreparable harm to us, our affiliates and the System. Therefore, you agree that, in the event of a breach or threatened breach of any of the terms of this Agreement by you, we shall be entitled to injunctive relief (both preliminary and permanent) restraining that breach and/or to specific performance to prevent the irreparable harm that you agree your failure to comply will cause. A court will determine if a bond or security must be posted. Any equitable remedies sought by us shall be in addition to, and not in lieu of, all remedies and rights that we otherwise may have arising under applicable law or by virtue of any breach of this Agreement.

8. Representations. The following sentences are added to the end of Section 15:

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed with the franchise.

9. Miscellaneous. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Modern Market Eatery Area Development Agreement. Except as expressly modified by this Addendum, the Modern Market Eatery Area Development Agreement remains unmodified and in full force and effect. This Addendum may be executed in multiple counterparts, each of which when executed and delivered shall be deemed an original and all of which together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Addendum by facsimile and any other electronic transmission (including PDF) shall be as effective as delivery of a manually executed counterpart of this Addendum.

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Effective Date.

FRANCHISOR:
Modern Market Franchising, LLC
a Delaware limited liability company

DEVELOPER: If a corporation, partnership, or limited liability company, print name of business entity on the line below:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Notice Address: 3001 Brighton Boulevard
Suite 701
Denver, CO 80216

Date: _____

Notice Address: _____

EFFECTIVE DATE: _____

If Developer is one or more individuals:
(Print Name):

Date: _____

(Print Name):

Date: _____

Notice Address: _____

**ADDENDUM TO THE MODERN MARKET EATERY
FRANCHISE AGREEMENT
REQUIRED FOR MINNESOTA FRANCHISEES**

This Addendum to the Modern Market Eatery Franchise Agreement dated _____ between Modern Market Franchising, LLC ("Modern Market") and _____ ("Franchisee") is entered into simultaneously with the execution of the Modern Market Eatery Franchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into, the Modern Market Eatery Franchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to Franchisee was made in the State of Minnesota; **(B)** Franchisee is a resident of the State of Minnesota; and/or **(C)** the Restaurant will be located and/or operated in the State of Minnesota.

2. Fee Deferral. The following sentence is added to the end of Sections 3.2.3 (Site Selection Assistance Fee), 4.1 (Franchise Fee), and 6.2 (Opening Team Fee):

Based upon Modern Market's financial condition, the Minnesota Department of Commerce has required a financial assurance. Therefore, all initial fees and payments Franchisee owes to Modern Market under this Agreement must be deferred until Modern Market completes its pre-opening obligations under this Agreement.

3. The following sentence is added to the end of Section 4.8:

Minnesota Statute 604.113 prohibits us from charging more than \$30 for insufficient funds charges.

4. Releases. The following sentence is added to the end of 16.4.4, 16.4.6, 17, and 18.3:

Notwithstanding the foregoing, Franchisee will not be required to assent to a release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statute §§ 80C.01 - 80C.22.

5. Indemnification. The following sentence is added at the end of Section 13:

Notwithstanding the foregoing, Modern Market will indemnify Franchisee against liability to a third party resulting from claims that Franchisee's use of a Proprietary Mark infringes trademark rights of a third party; provided, that Modern Market will not indemnify against the consequences of Franchisee's use of the Proprietary Marks unless the use is in accordance with the requirements of this Agreement and the System.

6. Injunctive Relief. Section 15.1.1(9) is deleted and replaced with the following statement:

Your use or duplication of the System or any part of the System in any other business, or disclosure of any part of the System to others for use or duplication in any other business, would constitute an unfair method of competition, for which we would be entitled to all legal and equitable remedies, including the right to seek injunctive relief. A court will determine if a bond or security must be posted.

7. Non-Renewal. The following sentence is added to the end of Section 18.2.1:

With respect to franchises governed by Minnesota law, Modern Market will comply with Minnesota Statute § 80C.14, Subdivision 3, 4, and 5 which requires, except in certain cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of franchise agreements.

8. Termination. The following sentence is added to the end of Section 19:

With respect to franchises governed by Minnesota law, Modern Market will comply with Minnesota Statute § 80C.14, Subdivision 3, 4, and 5 which requires, except in certain cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of franchise agreements.

9. Choice of Venue. The following sentences are added to the end of Section 26.2:

Minnesota Statute § 80C.21 and Minnesota Rule 2860.4400J prohibit Modern Market from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document or agreements can abrogate or reduce any of Franchisee's rights as provided for in Minnesota Statutes, Chapter 80C, or Franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

10. Waiver of Jury Trial. The Section 26.6.2 is deleted.

11. Limitation of Actions. The following sentence is added to the end of Section 26.3:

Minnesota Statute § 80C.17, Subdivision 5, provides that no action may be commenced pursuant to that Section more than three years after the cause of action accrues.

12. Injunctive Relief. The second sentence of Section 26.8 is deleted and replaced with the following sentence:

Therefore, you agree that, in the event of a breach or threatened breach of any of the terms of this Agreement by you, we shall be entitled to seek injunctive relief (both preliminary and permanent) restraining that breach and/or to specific performance to prevent the irreparable harm that you agree your failure to comply will cause. A court will determine if a bond or security must be posted.

10. Representations. The following sentences are added to the end of Section 28:

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed with the franchise.

13. Miscellaneous. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Modern Market Eatery Franchise Agreement. Except as expressly modified by this Addendum, the Modern Market Eatery Franchise Agreement remains unmodified and in full force and effect. This Addendum may be executed in multiple counterparts, each of which when executed and delivered shall be deemed an original and all of which together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Addendum by facsimile and any other electronic transmission (including PDF) shall be as effective as delivery of a manually executed counterpart of this Addendum.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Effective Date.

Modern Market Franchising, LLC
a Delaware limited liability company

By: _____
Print Name: _____
Title: _____
Notice Address: 3001 Brighton Boulevard
Suite 701
Denver, CO 80216

FRANCHISEE: If a corporation, partnership, or limited liability company, print name of business entity on the line below:

By: _____
Print Name: _____
Title: _____
Date: _____
Notice Address: _____

EFFECTIVE DATE: _____

If Franchisee is one or more individuals:

(Print Name) _____
Date: _____

(Print Name) _____
Date: _____
Notice Address: _____

ADDENDUM REQUIRED BY
THE STATE OF NORTH DAKOTA

**ADDITIONAL DISCLOSURE DOCUMENT DISCLOSURES
REQUIRED BY THE STATE OF NORTH DAKOTA**

Item 17. Additional Disclosures. The North Dakota Securities Commissioner has held the following to be unfair, unjust, or inequitable to North Dakota franchisees (Section 51-19-09, N.D.C.C.):

- A. **Restrictive Covenants:** Franchise disclosure documents which disclose the existence of covenants restricting competition contrary to Section 9-08-06, N.D.C.C., without further disclosing that such covenants will be subject to this statute.
- B. **Restriction on Forum:** Requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota.
- C. **Liquidated Damages and Termination Penalties:** Requiring North Dakota franchisees to consent to liquidated damages or termination penalties.
- D. **Applicable Laws:** Franchise agreements which specify that any claims arising under the North Dakota franchise law will be governed by the laws of a state other than North Dakota.
- E. **Waiver of Trial by Jury:** Requiring North Dakota franchisees to consent to the waiver of a trial by jury.
- F. **Waiver of Exemplary and Punitive Damages:** Requiring North Dakota franchisees to consent to a waiver of exemplary and punitive damages.
- G. **General Release:** Requiring North Dakota franchisees to execute a general release of claims as a condition of renewal or transfer of a franchise.
- H. **Limitation of Claims:** Requiring that North Dakota franchisees to consent to a limitation of claims. The statute of limitations under North Dakota law applies.
- I. **Enforcement of Agreement:** Requiring that North Dakota franchisees to pay all costs and expenses incurred by the franchisor in enforcing the agreement. The prevailing party in any enforcement action is entitled to recover all costs and expenses including attorney's fees.

Financial Assurance: The North Dakota Securities Department requires us to defer payment of the initial franchise fee and other initial payments owed by franchisees to the franchisor until the franchisor has completed its pre-opening obligations and the franchisee has commenced doing business under the franchise agreement.

Each provision of the Additional Disclosures shall be effective only to the extent that the jurisdictional requirements of the North Dakota Franchise Investment Law, with respect to each such provision, are met independent of the Additional Disclosures. The Additional Disclosures shall have no force or effect if such jurisdictional requirements are not met.

**ADDENDUM TO THE MODERN MARKET EATERY
AREA DEVELOPMENT AGREEMENT
REQUIRED FOR NORTH DAKOTA DEVELOPERS**

This Addendum to the Modern Market Eatery Area Development Agreement dated _____ between Modern Market Franchising, LLC ("Modern Market") and _____ ("Developer") is entered into simultaneously with the execution of the Modern Market Eatery Area Development Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into, the Modern Market Eatery Area Development Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to Developer was made in the State of North Dakota; **(B)** Developer is a resident of the State of North Dakota; and/or **(C)** part or all of the Development Area is located in the State of North Dakota.
2. Covenants Not To Compete. The following sentence is added to the end of Section 5:

Covenants not to compete are generally considered unenforceable in the State of North Dakota; however, Modern Market will enforce the covenants to the maximum extent the law allows.
3. Choice of Law. The following sentence is added to the end of Section 13.1:

Notwithstanding the foregoing, to the extent required by the North Dakota Franchise Investment Law, North Dakota law will apply to claims arising under the North Dakota Franchise Investment Law.
4. Choice of Forum. The following sentence is added to the end of Section 13.2:

Notwithstanding the foregoing, to the extent required by the North Dakota Franchise Investment Law, Developer may bring an action in North Dakota for claims arising under the North Dakota Franchise Investment Law.
5. Statute of Limitations. The following sentence is added to the end of Section 13.3:

Notwithstanding the foregoing, the statute of limitations under North Dakota law applies with respect to claims arising under the North Dakota Franchise Investment Law.
6. Jury Trial Waiver. To the extent required by the North Dakota Franchise Investment Law, Section 13.6 of this Agreement is deleted.
7. Representations. The following sentences are added to the end of Section 15:

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed with the franchise.
8. Financial Assurance. The North Dakota Securities Department requires us to defer payment of the initial franchise fee and other initial payments owed by franchisees to the franchisor until the franchisor has completed its pre-opening obligations and the franchisee has commenced doing business under the franchise agreement.

9. Miscellaneous. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Modern Market Eatery Area Development Agreement. Except as expressly modified by this Addendum, the Modern Market Eatery Area Development Agreement remains unmodified and in full force and effect. This Addendum may be executed in multiple counterparts, each of which when executed and delivered shall be deemed an original and all of which together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Addendum by facsimile and any other electronic transmission (including PDF) shall be as effective as delivery of a manually executed counterpart of this Addendum.

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Effective Date.

FRANCHISOR:
Modern Market Franchising, LLC
a Delaware limited liability company

DEVELOPER: If a corporation, partnership, or limited liability company, print name of business entity on the line below:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Notice Address: 3001 Brighton Boulevard
Suite 701
Denver, CO 80216

Date: _____

Notice Address: _____

EFFECTIVE DATE: _____

If Developer is one or more individuals:
(Print Name): _____

Date: _____

(Print Name): _____

Date: _____

Notice Address: _____

**ADDENDUM TO THE MODERN MARKET EATERY
FRANCHISE AGREEMENT
REQUIRED FOR NORTH DAKOTA FRANCHISEES**

This Addendum to the Modern Market Eatery Franchise Agreement dated _____ between Modern Market Franchising, LLC (“Modern Market”) and _____ (“Franchisee”) is entered into simultaneously with the execution of the Modern Market Eatery Franchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into, the Modern Market Eatery Franchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to Franchisee was made in the State of North Dakota; **(B)** Franchisee is a resident of the State of North Dakota; and/or **(C)** the Restaurant will be located and/or operated, and/or all or part of the Protected Area will be located, in the State of North Dakota.
2. Releases. The following sentence is added to the end of Sections 16.4.4, 16.4.6, 17, 18.3:

Any release required as a condition of renewal, sale and/or assignment/transfer will not apply to the extent prohibited by the North Dakota Franchise Investment Law.
4. Liquidated Damages. The following sentence is added to the end of Section 20.3:

Modern Market and Franchisee acknowledge that certain parts of this provision might not be enforceable under the North Dakota Franchise Investment Law. However, Modern Market and Franchisee agree to enforce the provision to the extent the law allows.
5. Covenants Not To Compete. The following sentence is added to the end of Section 15:

Covenants not to compete are generally considered unenforceable in the State of North Dakota; however, we will enforce the covenants to the maximum extent the law allows.
6. Choice of Law. The following sentence is added to the end of Section 26.1:

Notwithstanding the foregoing, to the extent required by the North Dakota Franchise Investment Law, North Dakota law will apply to claims arising under the North Dakota Franchise Investment Law.
7. Choice of Forum. The following sentence is added to the end of Section 26.2:

Notwithstanding the foregoing, to the extent required by the North Dakota Franchise Investment Law, Franchisee may bring an action in North Dakota for claims arising under the North Dakota Franchise Investment Law.
8. Statute of Limitations. The following sentence is added to the end of Section 26.3:

Notwithstanding the foregoing, the statute of limitations under North Dakota law applies with respect to claims arising under the North Dakota Franchise Investment Law.
9. Punitive Damages and Jury Trial Waiver. To the extent required by the North Dakota Franchise Investment Law, Sections 26.6.1. and 26.6.2 of this Agreement are deleted.

10. Representations. The following sentences are added to the end of Section 28:

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed with the franchise.

11. Miscellaneous. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Modern Market Eatery Franchise Agreement. Except as expressly modified by this Addendum, the Modern Market Eatery Franchise Agreement remains unmodified and in full force and effect. This Addendum may be executed in multiple counterparts, each of which when executed and delivered shall be deemed an original and all of which together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Addendum by facsimile and any other electronic transmission (including PDF) shall be as effective as delivery of a manually executed counterpart of this Addendum.

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Effective Date.

Modern Market Franchising, LLC
a Delaware limited liability company

By: _____
Print Name: _____
Title: _____
Notice Address: 3001 Brighton Boulevard
Suite 701
Denver, CO 80216

FRANCHISEE: If a corporation, partnership, or limited liability company, print name of business entity on the line below:

By: _____
Print Name: _____
Title: _____
Date: _____
Notice Address: _____

EFFECTIVE DATE: _____

If Franchisee is one or more individuals:

(Print Name) _____
Date: _____

(Print Name) _____
Date: _____
Notice Address: _____

ADDENDUM REQUIRED BY
THE COMMONWEALTH OF VIRGINIA

**ADDITIONAL DISCLOSURE DOCUMENT DISCLOSURES
REQUIRED BY THE COMMONWEALTH OF VIRGINIA**

1. The following Risk Factor is added to the State Cover Page:

Estimated Initial Investment. The franchisee will be required to make an estimated initial investment ranging from \$928,500 to \$1,468,750. This amount exceeds the franchisor's stockholders' equity as of October 1, 2023, which is \$(570,925).

2. **Item 17** is amended by the addition of the following:

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

3. This Addendum shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Virginia Retail Franchising Act are met independently, without reference to this Amendment.

EXHIBIT G

**LISTS OF FRANCHISED LOCATIONS, FRANCHISE AGREEMENTS
SIGNED BUT OUTLET NOT OPEN, AND FORMER FRANCHISEES**

LISTS OF FRANCHISED LOCATIONS

Franchisee	Address	City	State	Zip Code	Phone Number
Thrive MM Arboretum, LLC	9828 Great Hills Trail, Ste. 110	Austin	TX	78759	512-400-3677
Thrive MM Frost Tower, LLC	401 Congress Ave, Ste. 100A	Austin	TX	78701	512-666-3099
Thrive MM West Lake, LLC	3201 Bee Caves Rd., Ste. 144	Austin	TX	78746	512-640-0992

FRANCHISE AGREEMENTS SIGNED BUT OUTLET NOT OPEN

None.

FORMER FRANCHISEES

None.

EXHIBIT H
GENERAL RELEASE

GENERAL RELEASE

THIS GENERAL RELEASE ("Release") is executed on _____ by _____ ("Franchisee") and/or _____ ("Guarantors") as a condition of (1) the transfer of the Modern Market Franchising, LLC ("Modern Market") Franchise Agreement dated _____ between Modern Market and Franchisee ("Franchise Agreement"), or the Modern Market Development Agreement dated _____ between Modern Market and Franchisee ("Development Agreement"); or (2) the execution of a renewal Franchise Agreement by Franchisee and Modern Market.

1. Release by Franchisee and Guarantors. If Franchisee is an entity, Franchisee (on behalf of itself and its parents, subsidiaries and affiliates and their respective past and present officers, directors, shareholders, agents and employees, in their corporate and individual capacities) and Guarantors (on behalf of themselves and their respective heirs, representatives, successors and assigns) or, if Franchisee is an individual, Franchisee (on behalf of himself/herself and his/her heirs, representatives, successors and assigns) (collectively, "Releasers") freely and without any influence forever release Modern Market, its parent, subsidiaries and affiliates and their respective past and present officers, directors, shareholders, agents and employees, in their corporate and individual capacities (collectively, "Releasees"), with respect to any and all claims, demands, liabilities and causes of action of whatever kind or nature, whether known or unknown, vested or contingent, suspected or unsuspected (collectively, "Claims"), which any Releaser ever owned or held, now owns or holds or may in the future own or hold, including, without limitation, claims arising under federal, state and local laws, rules and ordinances and claims arising out of, or relating to, the Development Agreement and/or Franchise Agreement and all other agreements between any Releaser and any Release arising out of, or relating to any act, omission or event occurring on or before the date of this Release, unless prohibited by applicable law. This general release shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

2. Risk of Changed Facts. Franchisee and Guarantors understand that the facts in respect of which the release in Section 1 is given may turn out to be different from the facts now known or believed by them to be true. Franchisee and Guarantors hereby accept and assume the risk of the facts turning out to be different and agree that the release in Section 1 shall nevertheless be effective in all respects and not subject to termination or rescission by virtue of any such difference in facts.

3. Waiver of Section 1542. Further, Releasers expressly waive all right, protection, privilege and benefit under Section 1542 of the Civil Code of the State of California, which provides:

1542 A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

By signing this Release of All Claims, Releasers are giving up all rights under Section 1542 and any similar provision of any state.

3. No Prior Assignment. Franchisee and Guarantors represent and warrant that the Releasers are the sole owners of all Claims and rights released in Section 1 and that the Releasers have not assigned or transferred, or purported to assign or transfer, to any person or entity, any Claim released under Section 1.

4. Covenant Not to Sue. Franchisee and Guarantors (on behalf of Releasers) covenant not to initiate, prosecute, encourage, assist, or (except as required by law) participate in any civil, criminal, or administrative proceeding or investigation in any court, agency, or other forum, either affirmatively or by way of cross-claim, defense, or counterclaim, against any person or entity released under Section 1 with respect to any Claim released under Section 1.

5. Complete Defense. Franchisee and Guarantors: **(a)** acknowledge that the release in Section 1 shall be a complete defense to any Claim released under Section 1; and **(b)** consent to the entry of a temporary or permanent injunction to prevent or end the assertion of any such Claim.

6. Successors and Assigns. This Release will inure to the benefit of and bind the successors, assigns, heirs and personal representatives of Modern Market and each Releasor.

7. Third Party Beneficiary. Modern Market and its parent, affiliates and subsidiaries shall be third party beneficiaries under this Release.

8. Representation by Counsel. Franchisee and Guarantors acknowledge and agree that they have been represented by independent counsel of their own choice throughout all negotiations which preceded the execution of this Release, and that they have executed this Release with the consent and upon the advice of said independent counsel.

9. Enforcement. This Release and all claims relating to this Release shall be governed by and construed under the law of Colorado. Franchisee and Guarantors shall file any controversy or claim whatsoever arising out of or relating to this Release or the enforcement of the promises in this Release or with regard to the interpretation, formation, or breach of this Release in the court where Modern Market's principal offices are located. Modern Market may file any controversy or claim whatsoever arising out of or relating to this Release or the enforcement of the promises in this Release or with regard to the interpretation, formation, or breach of this Release in the court where its principal offices are located, where Franchisee resides or does business, or where the claim arose.

10. Confidentiality. The terms of this Release shall remain confidential and may not be disclosed except when and to the extent necessary to comply with applicable federal, state, or local laws, court orders or regulations.

11. Construction. Any capitalized terms that are not defined in this Release shall have the meaning given them in the Development Agreement and Franchise Agreement, as the context requires. The masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular to refer to and include the plural, and vice versa.

IN WITNESS WHEREOF, Franchisee and Guarantors have executed this Release as of the date shown above.

ATTEST:

By: _____
Print Name: _____
Title _____

WITNESS:

Print Name: _____

**FOR ENTITY:
FRANCHISEE:**

By: _____
Print Name: _____
Title _____
Date: _____

GUARANTOR:

Print Name: _____
Date: _____

**FOR INDIVIDUAL:
FRANCHISEE:**

Print Name: _____
Date: _____

State Effective Dates

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

This document is effective and may be used in the following states, where the document is filed, registered or exempt from registration, as of the Effective Date stated below:

STATES	EFFECTIVE DATE
Illinois	<i>Pending</i>
Indiana	<i>Pending</i>
Maryland	<i>Pending</i>
Michigan	<i>Pending</i>
Minnesota	<i>Pending</i>
North Dakota	<i>Pending</i>
South Dakota	<i>Pending</i>
Virginia	<i>Pending</i>
Wisconsin	<i>Pending</i>

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

RECEIPT

This disclosure document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If **Modern Market Franchising, LLC** offers you a franchise, **Modern Market Franchising, LLC** must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. New York requires that **Modern Market Franchising, LLC** gives you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Iowa requires that **Modern Market Franchising, LLC** gives you this disclosure document at the earlier of the first personal meeting or 14 calendar days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first. Michigan requires that **Modern Market Franchising, LLC** gives you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If **Modern Market Franchising, LLC** does not deliver this disclosure document on time or if it contains a false or misleading statement or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and to the appropriate state agency listed in Exhibit E.

The franchisor is **Modern Market Franchising, LLC**, located at 3001 Brighton Blvd., Suite 701, Denver, CO 80216. Its telephone number is (855) 470-0098.

The issuance date of this Franchise Disclosure Document is January 31, 2024. The name, principal business address and telephone number of each franchise seller offering the franchise is (who can be reached at 3001 Brighton Blvd., Suite 701, Denver, CO 80216, 855-470-0098):

- Robert McColgan (President)
- John C. Cywinski (Chief Executive Officer)
- Christopher Cheek (Chief Development Officer)
- _____

Modern Market Franchising, LLC authorizes the respective state agencies identified on Exhibit E to receive service of process of it in the particular state. I have received a Franchise Disclosure Document dated January 31, 2024, that included the following exhibits:

- | | |
|-------------------------------|---|
| A. Area Development Agreement | E. List of State Administrators and Agents for Service of Process |
| B. Franchise Agreement | F. State Addenda |
| C. Manual Table of Contents | G. Lists of Franchised Locations / Former Franchisees/ Franchise Agreements Signed Units Not Open |
| D. Financial Statements | H. General Release |

Date Received

Prospective Franchisee

Name (please print)

Address: _____

Please sign this copy of the receipt, date your signature, return the signed receipt to franchising@modernmarket.com.

RECEIPT

This disclosure document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If **Modern Market Franchising, LLC** offers you a franchise, **Modern Market Franchising, LLC** must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. New York requires that **Modern Market Franchising, LLC** gives you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Iowa requires that **Modern Market Franchising, LLC** gives you this disclosure document at the earlier of the first personal meeting or 14 calendar days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first. Michigan requires that **Modern Market Franchising, LLC** gives you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

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Date Received

Prospective Franchisee

Name (please print)

Address: _____

Please sign this copy of the receipt, date your signature and retain the signed Receipt for your records.