

## FRANCHISE DISCLOSURE DOCUMENT

Margaritas Franchising Corp.  
A Delaware Corporation  
273 Locust Street  
Suite 200  
Dover, NH 03820  
(603) 498-0496  
[www.margs.com](http://www.margs.com)  
[franchising@margs.com](mailto:franchising@margs.com)



As a Margaritas Restaurant franchisee, you will operate a casual restaurant, bar and lounge under the name “Tío Juan’s Margaritas Mexican Restaurant”, featuring Mexican cuisine with authentic Mexican influences for dine-in and carry-out (“Margaritas Restaurant”).

The total investment necessary to begin the operation of a Margaritas Restaurant ranges from approximately \$~~1,375,500~~488,800 to \$~~2,878,932~~,600. This includes a \$85,000 to \$125,000 that must be paid to the franchisor or affiliate, but does not include the cost of buying or renting the business location or obtaining a liquor license. The total investment necessary to begin operation as an Area Developer is \$10,000 which must be paid to us for each Margaritas Restaurant that you agree to develop at the time you sign the Area Development Agreement. We do not require a minimum number of Margaritas Restaurants required to be opened under a development agreement but generally we grant the right to open three to five franchised restaurants.

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar-days before you sign a binding agreement with, or make any payment to the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no governmental agency has verified the information contained in this 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 Thomas Radomski, Vice President of Franchise Development, Margaritas Franchising Corp. at 273 Locust Street, Suite 200, Dover, New Hampshire 03820, (603) 498-0496, [franchising@margs.com](mailto:franchising@margs.com).

The terms of your contract will govern your franchise relationship. Don’t rely on the disclosure document alone to understand your contract. Read all of your contract

carefully. Show your contract and this disclosure document to an advisor, like a lawyer or 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 by calling 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, DC 20580. You can also visit the FTC’s home page at [www.ftc.gov](http://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.

Issued: April ~~28~~<sup>19</sup>, 202~~3~~<sup>4</sup>.

## 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
<b>How much can I earn?</b>	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.
<b>How much will I need to invest?</b>	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.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit D includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only Tio Juan’s Margaritas Mexican Restaurant business in my area?</b>	Item 12 and the “territory” provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What’s it like to be a Tio Juan’s Margaritas Mexican Restaurant franchisee?</b>	Item 20 lists current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	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 A.

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 requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in New Hampshire. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in New Hampshire than in your own state.
2. **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.
3. **Supplier Control.** You must purchase nearly all of the inventory or supplies that are necessary to operate your business from the franchisor, its affiliates, or approved 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.

**NOTICE REQUIRED  
BY  
STATE OF MICHIGAN**

The following is applicable to you if you are a Michigan resident or your franchise will be located in Michigan.

**Section 445.1508(1) of the Michigan Franchise Investment Law requires franchisor to give you a copy of the Franchise Disclosure documents earlier of: (i) 10 business days prior to signing the Franchise Agreement; or (ii) 10 business days prior to franchisor’s receipt of any consideration.**

**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, according to the Michigan Department of Attorney General, Consumer Protection Division (the “Division”), the provisions are void and cannot be enforced against you:**

- (a) A prohibition on the right of a franchisee to join an association of franchisees.
- (b) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided by the Michigan Franchise Investment Law. 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 subsection does not require a renewal provision.
- (f) A provision requiring that arbitration or litigation be conducted outside the State of Michigan. This shall not preclude the franchisee from entering into an

agreement, at the time of arbitration, to conduct arbitration at a location outside this state.

- (g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:
  - (i) The failure of the proposed transferee to meet the franchisor's then **current** reasonable qualifications or standards.
  - (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.
  - (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
  - (iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

(h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market value 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) above.

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

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

Any questions regarding this notice should be directed to:

Michigan Department of Attorney General  
Consumer Protection Division  
Attn: Franchise Registration/Section Franchise Administrator  
525 W. Ottawa Street  
670 Law Building  
Lansing, Michigan 48913  
(517) 373-7117

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## Exhibits

- A. List of State Administrators and Agents for Service of Process
- B. Area Development Agreement
- C. Franchise Agreement
- D. Financial Statements
- E. Table of Contents – Operating Manual
- F. State Specific Addenda to the Disclosure Document
- G. State Specific Amendments to the Franchise Agreement and Area Development Agreement
- H. Spousal Non-Disclosure and Non-Competition Agreement
- I. Receipts

## ITEM 1

### THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS AND AFFILIATES

To simplify the language in this disclosure document, “MFC,” “we” or “us” means Margaritas Franchising Corp., the franchisor. “You” means the person or legal entity who is granted the franchise. If you are a corporation, partnership, limited liability company or other business entity, certain provisions of this disclosure document also apply to your owners and will be noted.

MFC is a Delaware corporation, incorporated on October 27, 2008, whose principal business address is 273 Locust Street, Suite 200, Dover, New Hampshire 03820. We are an affiliate of Margaritas Management Group, Inc. (“MMGI”). MMGI has the same principal address as MFC. We do business under the name “Tio Juan’s Margaritas Mexican Restaurant” and “Margaritas Mexican Restaurant & Watering Hole.” We do not operate any Margaritas Restaurants. MMGI has operated Margaritas Restaurants since 1984. As of December 31, 2023, MMGI operated 189 Margaritas Restaurants. Our agents for service of process in various states are listed in Exhibit A.

In April 2009, we began offering franchises for Margaritas Restaurants. As of December 31, 2023, there were seven six franchised Margaritas Restaurant open. We have not previously offered franchises in any line of business, and we do not engage in any business not described in this Item 1. MMGI does not provide products or services to our franchisees. MMGI has never offered franchises in this or in any other line of business. Except as identified in this Item 1, we have no parents, predecessors or affiliates.

#### **Margaritas Restaurants**

We are offering, under the terms of this disclosure document, the opportunity to become a franchisee to develop and operate one or more Margaritas Restaurants. Margaritas Restaurants are casual dining restaurants that offer Mexican cuisine with authentic Mexican influences, along with chicken, burgers and steaks, for dine-in and carry-out. Margaritas Restaurants also offer signature margaritas made with real lime and lemon juices. Margaritas Restaurants prepare the cuisine daily using the freshest and finest ingredients and serve this food in a festive atmosphere.

Margaritas Restaurants operate according to a unique and distinctive system (“System”), whose distinguishing characteristics include menu items, recipes and food preparation and service techniques; our authentic Mexican décor, layout, hand-crafted furnishings, color schemes and designs (collectively, “Trade Dress”); our standards and specifications for equipment, equipment layouts and interior and exterior accessories; and the accumulated experience reflected in our training programs, operating procedures and standards and specifications. We have described our mandatory and recommended standards, specifications and operating procedures in a collection of confidential operating manuals (“Manual”). We will loan one copy of the Manual to you for the term of your franchise. We may periodically change, improve, add to and further develop the Manual and the elements of the System.

If you and the area in which you are interested, meet certain qualifications, you can be licensed and be obligated to the rights to develop multiple Margaritas Restaurants under an Area Development Agreement (“Development Agreement”) (Exhibit B) in accordance with an agreed upon Development Schedule. Currently, we do not require a minimum number of Margaritas Restaurants required to be opened under a development agreement but generally we grant the right to open three to five franchised restaurants. Before you acquire a site for a franchised Margaritas Restaurant (“Franchised

Restaurant”), we must accept the site for the Franchised Restaurant (“Authorized Site”). Once the site is accepted, and we have consented to the proposed lease, we will forward to you a Franchise Agreement for the Authorized Site. Upon establishing each additional outlet under the Development Schedule, you will be required to sign a then-current Franchise Agreement, which may differ from the current Franchise Agreement included with this Franchise Disclosure Document. Within 10 days after you receive the Franchise Agreement, you must sign and return it to us, along with a copy of the Authorized and signed lease. You should not acquire any interest in a site for a Franchised Restaurant until you have signed the Franchise Agreement and we have accepted the site in writing.

Your receipt of this disclosure document does not mean you will be accepted as a franchisee or that you may develop or open a Franchised Restaurant. Before you may develop and open a Franchised Restaurant, among other things, we must approve you as a franchisee (or if you already are a franchisee, approve you for expansion); we must accept the site for your proposed Franchised Restaurant in writing; you must sign the Franchise Agreement; and you (or your Operating Principal (as defined in Item 15) and those managerial personnel that we designate must attend and successfully complete our Initial Franchise Operations Program (“IFOP”) (as described in Item 11).

### **Market and Competition**

The market for Mexican restaurants is well-established. Not only will you compete with other national and regional casual dining restaurants that offer Mexican fare, you will also compete with all restaurants offering food and beverage for consumption. 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 and traffic patterns. The ability of each Margaritas Restaurant to compete depends on its location, ingress and egress, signage, parking, service, ability to attract and maintain highly motivated employees, overhead, changing local market and economic conditions and many other factors both within and outside your control.

Based on our experience in the restaurant industry, we believe employee morale translates directly to guest satisfaction and loyalty. As a result, you must establish a work environment that emphasizes leadership, respect, teamwork, performance, customer service and community involvement. You will have sole responsibility for your employees and all acts of your employees, and all employment-related decisions involving wages, benefits, hours of work, scheduling, hiring, firing, discipline, supervision, record keeping, withholding income tax, social security contributions, Medicare contributions, unemployment fund contributions and all other terms and conditions of employment. You must disclose to each of your employees in writing, in a form approved by us in advance, that we are not a "joint employer" of your employees and acknowledge that we do not control your personnel policies.

Although we carefully evaluate persons who wish to become our franchisees, no screening process that we implement can conclusively determine whether you will succeed as a Margaritas Restaurant operator. Similarly, completion of our IFOP does not provide any assurance of success. You must rely on your own assessment of your suitability (in terms of energy, experience, business skill, desire, temperament, people skills and financial capability, among other things) and your own advisors in deciding whether to become a Margaritas Restaurant operator.

### **Industry-Specific Laws**

We are not aware of any laws applicable to a Margaritas Restaurant that would not apply to restaurant businesses generally. You must comply with all applicable local, state and federal laws

and regulations, including those relating to health, sanitation, food handling, food preparation, waste disposal, smoking restrictions, alcoholic beverage restrictions, discrimination, employment, sexual harassment and advertising. Some laws require point of sale disclosures, including statements concerning nutritional and dietary characteristics of the food served at the Franchised Restaurant. The menu labeling provisions of the Patient Protection and Affordable Health Care Act require restaurant chains with 20 or more units to post caloric information on menus and menu boards, and to provide additional written nutrition information available to consumers upon request. For smaller chains, some states and local governments may require you to comply with laws relating to the labeling that is included on your menus, menu boards, and related materials. There are other laws and regulations applicable to businesses generally (such as the Americans with Disabilities Act) with which you must comply. You should consult with your attorney concerning these and other laws and ordinances that may affect the operations of the Franchised Restaurant. You must also obtain all real estate permits and licenses and operational licenses.

## ITEM 2

### BUSINESS EXPERIENCE

#### **Founder, Chairman of the Board: John Joseph Pelletier**

Mr. Pelletier has been Founder and Chairman of the Board since October 2008. From October 2008 to January 2023 Mr. Pelletier was also Chief Executive Officer. Since January 1986, he also has been Founder and Chairman of the Board of MMGI and since 2008, he also has been Chief Executive Officer of MMGI.

#### **Owner and Director: David Pelletier**

Mr. Pelletier has been an Owner and Director since October 2008. Since July 2017, he also has been our President. Since August 1987, he also has been an Owner and Director of MMGI. From August 1987 to June 2000, he was Vice President of Operations for MMGI.

#### **Owner, Director, Chief Operating Officer and Chief Executive Officer: Randall (Bob) Ray**

In January 2023 Mr. Ray became Chief Executive Officer. In May 2020, Mr. Ray became an MMGI owner and Chief Operating Officer. In December 2020, Mr. Ray became a member of the Board of Directors of MMGI. From March 2018 to March 2020, he was Margaritas' Director of Human Resources. From April 2014 to December 2017, he was self-employed in financial services with Northwestern Mutual. From June 2008 to September 2013, he was the VP of Operations for Margaritas. From May 2001 to June 2008, he was the VP of New Restaurant Openings. From October 1995 to May 2001, he was the Director of Food and Beverage and oversaw purchasing. Mr. Ray joined MMGI in May 1992.

#### **Owner, Director, President: Anthony Ackil**

Mr. Ackil has been a MMGI Director since April 2020. In December of 2020, Mr. Ackil became a MMGI owner and President. Since March 2020, Mr. Ackil has been on the Board of Directors for Red Robin Gourmet Burgers, Inc. in Greenwood Village, Colorado. Since January 2018, he has also been Chief Executive Officer for Streetlight Ventures in Charlestown, Massachusetts. From January 2004 to January 2021, he was also on the Board of Directors and Chief Executive Officer for b.good LLC in Boston, Massachusetts.

**Director: Paul Twohig**

Mr. Twohig has been Director since December 2020. From June 2017 to February 2020, he was President of MOD Pizza in Bellevue, Washington. From October 2009 to April 2017, he was President of Dunkin Brands in Canton, Massachusetts.

**Director: Mitchell Kahn**

Mr. Kahn has been Director since December 2020. Since June 2014, he has also been a Principal of Hexagon Hospitality in New York, New York.

**Director: David Lloyd**

Mr. Lloyd has been Director since August 2021. Since September 2013, he has also been self-employed as a business consultant to various foodservice businesses.

**Board Advisor: Larry A. Cates**

Mr. Cates has been a Board Advisor since June 2009. Since October 2004, he also has been an advisor/consultant to various foodservice and retail businesses.

**Vice President of Franchise Development: Thomas Radomski**

Mr. Radomski has been Vice President of Franchise Development since October 2008. Since June 2008, he also has been Vice President of Franchise Development for MMGI. From December 2001 to June 2008, Mr. Radomski was Vice President of Operations for MMGI.

**Vice President of Finance and Accounting, Treasurer: Jodenne Scott**

Ms. Scott has been Treasurer since May 2020 and Vice President of Finance and Accounting since March 2020. Since March of 2020, she has also been Vice President of Finance for MMGI. From June 1987 to March 2020, she was Controller for Shari's Management Corporation in Portland, Oregon.

**Vice President of Operations: Stephen Belanger**

Mr. Belanger has been Vice President of Operations since April 2021. From March 2015 to April 2021, he was Director of Operations for MMGI.

**ITEM 3**

**LITIGATION**

No other 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**

**Development Fee**

When you sign the Development Agreement, you must pay us a Development Fee equal to \$10,000 for each Franchised Restaurant that you agree to develop at the time you sign the Agreement. We do not require a minimum number of Margaritas Restaurants to be opened under a development agreement but generally we grant the right to open three to five franchised restaurants. The Development Fees are not refundable.

**Initial Franchise Fee**

The Initial Franchise Fee is \$40,000 for each Franchised Restaurant. The Initial Franchise Fee is paid to us in full the date you sign the Franchise Agreement. Single franchise units are an option under this offering. The Initial Franchise Fee is fully earned by us when paid by you and is not refundable.

**Payments for Goods and Services**

Prior to opening the Franchised Restaurant, you must purchase certain inventory and supplies from us or our approved or designated suppliers. Payment for these purchases are due at the time of order. The initial purchase of inventory, furnishings and supplies -order through us will range between \$45,000 to \$85,000, depending on the requirements of the Authorized Site. Items 7 and 8 provide additional information regarding your initial purchase of inventory, furnishings and supplies and the supplier approval process. The costs you incur may vary depending, in part, on the amounts purchased, the type of inventory and equipment ordered, state and local taxes imposed and shipping costs. These purchases are non-refundable.

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**ITEM 6**

**OTHER FEES**

<b>Type of Fee (1)</b>	<b>Amount (2)</b>	<b>Due Date</b>	<b>Remarks</b>
<b>Royalty</b>	5% of your weekly Gross Sales	Payable weekly on the day of the week we designate periodically – by electronic funds transfer <b>(2)</b>	See Note <b>(3)</b> for a definition of Gross Sales. If, due to federal, state or local laws, we are prohibited from receiving a percentage royalty based on alcoholic beverage revenues, you must pay a Royalty on all Gross Sales except alcoholic beverages in the same total dollar amount as you would have paid if you paid the specified percentage Royalty on all Gross Sales.
<b>Advertising</b>	Up to 4% of weekly Gross Sales Currently, your Advertising Obligation is 2% of Gross Sales to be spent 1.5% on local marketing and .5% to the Brand Fund.	Same as Royalty	Your Advertising Obligation will be allocated to a Brand Fund, a Regional Advertising Fund and local marketing. Following written notice to you, we may modify the amount and allocation of the Advertising Obligation; however, once a Regional Advertising Fund that covers the Franchised Location is established, we will not increase the Advertising Obligation by more than 0.5% of Gross Sales in any 12-month period.
<b>Grand Opening</b>	In accordance with a grand opening plan that we must consent to, you will spend a minimum of \$10,000 on grand opening activities.	As incurred	Grand opening activities will begin one month prior to opening and continue through the second month after opening.
<b>Site Selection Assistance</b>	You must reimburse us for all travel costs, lodging, meals and wages of our representative who conducts the on-site evaluation.	Upon demand	Our first site selection review is provided at no cost. If you request, or we require, a second or subsequent on-site evaluation for and Franchised Restaurant.

Type of Fee (1)	Amount (2)	Due Date	Remarks
<b>Transfer Fee – Development Agreement</b>	Greater of 20% of the total amount of the Development Fees you paid for Franchised Restaurants developed or to be developed under the Development Agreement or \$10,000	Upon submission of request for consent to transfer	<p>You will not be required to pay a transfer fee if you transfer to a business entity that you form for convenience of ownership, but you will need to comply with certain conditions.</p> <p>This fee also applies to transfers of partial ownership interests and transfers upon death or permanent incapacity.</p> <p>You must reimburse us all costs and expenses that we incur for any uncompleted transfer.</p>
<b>Transfer Fee – Franchise Agreement</b>	25% of our then-current Initial Franchise Fee	Upon submission of request for consent to transfer	<p>You will not be required to pay a transfer fee if you transfer to a business entity that you form for convenience of ownership, but you will need to comply with certain conditions.</p> <p>This fee also applies to transfers of partial ownership interests and transfers upon death or permanent incapacity.</p> <p>You must reimburse us all costs and expenses that we incur for any uncompleted transfer.</p>
<b>Audit and Inspection Costs</b>	Full cost of the inspection or audit, including travel, lodging, meals and wages of our representatives and our reasonable professional fees	Upon demand	Payable only if an inspection or audit is made necessary by your failure to provide required reports or supporting records, or provide such reports or records on a timely basis, or if the audit or inspection reveals an understatement of Gross Sales of greater than 2% for the audit period.
<b>Indemnification</b>	Actual losses and expenses incurred by us and our officers, affiliates, etc.	As incurred	You must indemnify and hold us and our officers, affiliates, etc. harmless with respect to any and all claims arising directly or indirectly from, as a result of, or in connection with the training we provide and the Franchised Restaurant.
<b>Interest</b>	Interest on the amount owed from the due date until paid	When any payment due to us from you is not received in full by the due date	The interest rate is the Prime Rate (established by Citibank or another bank selected by us) plus 6% or the maximum rate permitted by law, if less.

<b>Type of Fee (1)</b>	<b>Amount (2)</b>	<b>Due Date</b>	<b>Remarks</b>
<b>Collection Costs</b>	All costs and expenses that we incur, including reasonable professional fees	Upon demand	These costs and expenses may include commissions due a collection agency and all costs associated with litigation, in addition to interest charges on these costs.
<b>Training</b>	Actual expenses incurred by you and your employees while attending the IFOP	As incurred	You must pay all salaries, benefits, travel, living and other expenses. We do not charge a training fee for the IFOP. <b>(4)</b>
<b>Opening Training</b>	Actual travel, food and lodging expenses incurred and \$20.00 per diem for miscellaneous expenses	As incurred	You must pay these expenses incurred for each of the Opening Team trainers during the opening period for each Franchised Restaurant. <b>(5)</b>
<b>Market Research and Testing</b>	Proportionate cost of conducting test marketing programs	As incurred	We may periodically conduct market research and testing to determine consumer trends and the salability of new food products and services. You must cooperate with us in connection with the conduct of such test marketing programs at your own expense.
<b>POS System Technical Assistance</b>	Our then-current hourly rate, currently \$150 per hour	Upon demand	Payable if you ask us to provide technical assistance to support, maintain or repair your POS System.
<b>New Product and Supplier Testing</b>	A reasonable fee, not to exceed the actual cost of inspecting and testing the proposed product or evaluating the proposed supplier, including personnel and travel costs	Within 30 days after receipt of invoice	Payable if you ask us to review a new supplier or new product, whether or not we approve the supplier or product (see Item 8 for a description of the supplier approval process).
<b>Reimbursement of Insurance Costs</b>	Cost of insurance, plus a reasonable fee for our services in procuring the insurance	Upon demand	Payable only if you fail to obtain and maintain the minimum insurance we require, and we choose to procure the required insurance for you.
<b>Relocation</b>	A reasonable fee, plus our reasonable expenses incurred in connection with consideration of the relocation request	Upon demand, if required	You may not relocate a Franchised Restaurant without our prior written consent, which we may withhold in our sole discretion.
<b>Taxes</b>	You must reimburse us for any taxes, fees or assessments imposed on us by reason of our acting as franchisor or licensing the Proprietary Marks.	Within 30 days after receipt of the invoice	

Type of Fee (1)	Amount (2)	Due Date	Remarks
<b>Customer Complaint Resolution</b>	Actual cost to satisfy your customers	On demand	If we step in to resolve any complaints from your customers, you must pay us for our time and any compensation (i.e., replacement product) given to customer(s).
<b>Interim Operation of the Franchised Restaurant (Temporary Management)</b>	Reasonable management fee not to exceed 7% of weekly gross sales for our services in addition to reimbursement of our expenses	On receipt of invoice	See Note (6)

## NOTES

- (1) Unless otherwise noted, all fees are imposed by, collected by and payable to MFC, are not refundable and are uniformly imposed on our franchisees. Maximum interest permitted in California is 10% annually.
- (2) You must participate in our electronic funds transfer program, which authorizes us to use a pre-authorized bank draft system for payment of all amounts owed to us. You must sign and complete the Authorization Agreement attached to the Franchise Agreement to authorize and direct your bank or financial institution to pay and deposit directly to our account. You must furnish to us and your bank all authorizations necessary to effect payment by the methods we specify. We reserve the right to modify, at our option, the method by which you must pay amounts owed under the Franchise Agreement and other agreements upon receipt of written notice by us.
- (3) "Gross Sales" include all revenue from the sale of all services and products and all other income of every kind and nature (including stored value gift cards and gift certificates when redeemed, on-premise sales, off-premise sales, other sales made or sold, at, in, upon or from the Franchised Location, and any other type of sale) related to the Franchised Restaurant, whether for cash, in services in kind, from barter and/or exchange or credit and regardless of collection in the case of credit. Gross Sales will not include: **(a)** any bona fide documented federal, state, or municipal sales taxes collected by you from customers and paid by you to the appropriate taxing authority; **(b)** the sale of food, beverages or merchandise for which refunds have been made in good faith to customers; **(c)** the sale of equipment used in the operation of the Franchised Restaurant; **(d)** authorized customer promotional discounts; and **(e)** employee meal discounts.
- (4) As of the date of this disclosure document, there is no charge for attending additional training in the form of regularly-scheduled classes at our offices or designated training facilities if space is available; however, we have the right to charge a reasonable fee for additional training, whether mandatory or optional. You must also pay all travel, living and other expenses incurred by you (or your Operating Principal) and your employees while attending any additional training programs.
- (5) You must pay for all travel, meals, excluding alcohol, and lodging, at a nationally recognized hotel chain, 3 star-rated or better, in addition to a \$20.00 per diem for miscellaneous expenses

incurred for each of the Opening Team trainers during the opening period for each Franchised Restaurant. If you schedule the services of the Opening Team and do not comply with the Notice of Delayed Opening, you will be obligated to reimburse us for the additional costs and expenses we incur due to the delayed opening.

- (6) If the deceased or incapacitated person is the Operating Principal or your general manager, or you are in material breach of the Franchise Agreement, we have the right, but not the obligation to operate the Franchised Restaurant until an assignee we approve assumes management and operation of the Franchised Restaurant for as long as, in our reasonable judgment, it is necessary. If we manage the Franchised Restaurant, you must pay us, in addition to all other amounts due, reasonable compensation and expenses (including travel and living expenses of the temporary manager, and any direct expenses) of managing the Franchised Restaurant on your behalf during this time period.

**ITEM 7**

**ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**

Type of Expenditure	Amount (1)	Method of Payment	When Due	To Whom Payment Is To Be Made
Initial Franchise Fee	\$40,000	Lump Sum	Upon your execution of Franchise Agreement	MFC
Real Estate (3)	Variable			
Construction (4)	<del>\$400,000</del> <u>155,000</u> 0 - <del>\$1,575,000</del> <u>1,778,000</u>	See Note 3	Before Opening	Architect, Construction Company
Travel and Living Expenses while Training (5)	\$10,000 - \$20,000	As Arranged	Before Beginning Training	Airlines, Hotels and Restaurants
Furnishing, Fixtures and Equipment (6)	<del>\$425,000</del> <u>45,000</u> - <del>\$625,561</del> ,000	As Arranged	As Ordered	MFC, Suppliers
Signage	<del>\$208,000</del> - \$40,000	As Arranged	As Ordered	Suppliers
Initial Inventory and Supplies (7)	<del>\$3521,000</del> - \$43,000	As Arranged	As Ordered	MFC, Suppliers
Miscellaneous Opening Costs (8)	<del>\$24055,000</del> - <del>\$340260,000</del>	As Arranged	Before Opening	MFC, Advisors, Suppliers, Utilities, Etc.
Insurance (9)	<del>\$20,000</del> <u>4,300</u> - \$40,000	As Arranged	As Arranged	Insurer

Type of Expenditure	Amount (1)	Method of Payment	When Due	To Whom Payment Is To Be Made
Permits and Liquor Licenses (10)	Variable	As Arranged	As Incurred	Governmental Authority
Gift Card Program	\$500-\$600	As Arranged	Before Opening	Suppliers
Additional Funds -- 3 months after opening (11)	\$ <del>475</del> <u>150</u> ,000	As Arranged	As Incurred	Suppliers
Total (12)	\$ <del>4,365,500</del> <u>488,800</u> - \$ <del>2,868</del> <u>2,932</u> ,600 (Totals do NOT include: (i) Real Estate costs, permits or (ii) cost of obtaining a Liquor License)			

Type of Expenditure	Amount (1)	Method of Payment	When Due	To Whom Payment Is To Be Made
Per Location Development Fee (2)	\$10,000	Lump Sum	Upon execution of the Development Agreement	MFC
Totals (2)	\$10,000			

## NOTES

- (1) Costs paid to us are not refundable. Whether any costs paid to third parties are refundable will vary based on the practice in the area where the Franchised Restaurant is located.
- (2) We do not require a minimum number of Margaritas Restaurants to be opened under a development agreement but generally we grant the right to open three to five franchised restaurants.
- (3) The cost of acquiring a location for the Franchised Restaurant will vary significantly depending on the geographic location. We expect that you will lease the land and building for the Franchised Restaurant. Alternatively, you may wish to buy land for the Franchised Restaurant. If you chose to lease, the rent may range from \$17 - \$~~45~~55 per square foot per year. This estimate is based on a restaurant of ~~6,000~~4,300 – ~~9,000~~8,500 square feet. You may be required to pay the first and last month's lease payment upon signing your lease agreement.

- (4) The cost of constructing a Margaritas Restaurant will vary depending upon the size, condition and location of the premises, price differences between various suppliers and contractors and shipping distances from suppliers. This estimate is based on a restaurant of approximately ~~6,000~~4,300 – 8,500 square feet with construction costs ranging from \$~~70~~36 - \$~~304~~254 per square foot. The lower end of the range reflects the cost of converting an existing restaurant space to a Margaritas Restaurant. The higher end of the range reflects the cost of vanilla box construction. Since there is no required prototype/layout you must use, we believe that any available appropriate size restaurant spaces may be suitable for development of a Franchised Restaurant.

All construction materials and fixtures must meet our standards and specifications but may be purchased from any supplier. These costs are normally payable to third parties prior to the opening of the Margaritas Restaurant or in periodic installments, depending on the type of financing arrangement you are able to obtain. We do not undertake to assist you in arranging financing, and there is no assurance that financing will be available to you. Generally, the availability and terms of financing will depend upon many factors, including, particularly, your creditworthiness.

- (5) As described in Item 11, prior to opening a Margaritas Restaurant, you (or your Operating Principal), the Franchised Restaurant's general manager, two bartenders, and any managerial personnel we designate must attend the IFOP. We do not charge tuition for this training program, but you are responsible for all salaries, benefits, travel, living and other expenses incurred by you and your employees while attending the training. The cost of these expenses will depend on the distance you must travel, the types of accommodations, the number of your employees attending training and their wages.
- (6) You must purchase certain items of furniture, fixtures, décor and equipment, including tables, chairs, POS systems, kitchen and bar equipment. The cost of purchasing equipment may vary as a result of price differences between suppliers and shipping distances from suppliers. You may purchase or lease approved brands and models of equipment and signs from any supplier. Payment for these items will be made upon placement of order prior to the opening of the Franchised Restaurant. For certain items you may arrange payment in installments over a period of time, depending on the type of financing arrangement you are able to obtain. Generally, the availability and terms of financing will depend upon many factors, including, particularly, your creditworthiness.
- (7) The cost of an opening inventory of food, beverages, cooking materials, ingredients, and other supplies and materials will vary depending on shipping distances from suppliers and price differences between suppliers. As described in Item 8, these items must conform to specifications established by us and/or be purchased from approved suppliers.
- (8) This item covers such miscellaneous pre-opening costs and expenses as manager and employee labor, insurances, utilities and utility deposits, marketing, soft opening practice sessions, new team member training materials, lighting supplies, office supplies, seasonal decorations, bottled gases, cleaning supplies, chemicals, first aid kit setup, miscellaneous other supplies, training team transportation, lodging and meals, menu and table tent expenses, security system purchase and installation, background music fees, aprons, laundry, pest control, postage and shipping, professional seminars, storage fees, bank service charges, payroll service charges, licenses and permits. Manager and employee labor expenses vary according to the wage rate, and number of employees and managers hired and trained before

opening the restaurant. Certain supplies and inventory may be purchased from us but it is not required, as long as they are purchased from approved or designated suppliers.

- (9) This estimate is the cost to obtain the minimum required annualized insurance specified in Item 8 and the Manual. You will need to consult with your insurance agent to obtain actual premium quotes and costs. Cost of coverage will vary based upon the Franchised Location, your experience with your insurer, the insurer's loss history 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.
- (10) We cannot estimate the cost to obtain required permits and liquor licenses since it varies greatly from jurisdiction to jurisdiction depending on the licensing activity involved and the local liquor license resale market, if any.
- (11) This is our estimate of your operating expenses for the initial 3 months of your business, including payroll costs for management, rent, insurance, and utilities. These expenses do not include advertising or royalty payments made to us. The estimate also does not take into account revenue you may take in. These figures are estimates, and MFC cannot guarantee that you will not have additional expenses starting the business. Your actual costs will depend on factors such as how closely you follow MFC's methods and procedures; your management skill, experience and business acumen; financing costs; local economic conditions; the local market for the Franchised Restaurant; the prevailing wage rate; competition in the market place; and the sales level reached during the initial period.
- (12) MFC relied on the experience of affiliate and franchisee new restaurant openings between 20~~08~~<sup>20</sup> and 20~~09~~<sup>23</sup> to compile these estimates. You should review these figures carefully with a business advisor before making any decision to purchase a franchise. We do not offer financing directly or indirectly for any part of the initial investment.

## ITEM 8

### RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

#### Authorized Products and Services

You may offer for sale and sell in the Franchised Restaurant only the products, services and brands that we have designated in the Manual or otherwise in writing. You must offer all items that we designate as mandatory. We may also designate some items as optional. We may change the mandatory and optional menu items, ingredients and other products and services in our sole discretion. We may require that you sell certain brands and prohibit you from selling other brands. You may sell products only in the varieties, weights, sizes, forms and packages that we have designated. You must use only authorized ingredients in the preparation of menu items. You may not use the Franchised Location for the sale or display of items not authorized by us. Within 15 days after we provide written notice to you, you must begin selling any newly authorized menu items (or using any newly authorized ingredients) and cease selling any menu item that is no longer authorized (or using any ingredient that is no longer authorized); however, if the discontinued menu item or ingredient could pose a hazard to the public or prove detrimental to the system, you must cease selling or using that item or ingredient immediately. All food, beverages and merchandise authorized for sale at the Franchised Restaurant must be offered for sale under the name that we specify. We periodically will provide you suggested retail prices for the products and services offered at the Franchised Restaurant

and, to the extent permitted by applicable law, we may require that you adhere to our suggested prices, including maximum prices. If you have a suggestion for a new menu item or ingredient, or for a change to an authorized menu item or ingredient, or you wish to participate in a test market program, you must notify us before you implement any such change or commence any such program. You may not add or modify any menu item or participate in a test market program without first obtaining our prior written approval.

### **Supplier Approval Process**

We have the right to require that all food and non-food products, supplies, equipment and services that you purchase for use, sale or resale in the Franchised Restaurant: **(a)** meet specifications that we establish from time to time; **(b)** be purchased only from suppliers that we have consented to (which may include us or our affiliates); and/or **(c)** be purchased only from a single source or from a limited number of designated sources (which may include us or our affiliates). To the extent that we establish specifications, require our consent to suppliers or designate specific suppliers for particular items, we will publish our requirements in the Manual. We may create purchasing restrictions to control the quality and selection, and ensure the consistency, of menu items, ingredients and other merchandise; to consolidate System purchases to reduce costs or ensure availability of products; or for other valid business reasons.

You may not engage in “grey market” activities, in which you take advantage of any group purchasing arrangements for Margaritas Restaurants to purchase products that you then resell to purchasers outside of the System or use in a business outside of the System.

In our fiscal year end December [2731](#), [20223](#), neither we nor our affiliate(s) earned any revenue, rebates or other material considerations from required franchisee purchases. Although we do not currently do so, if we or our affiliates receive rebates, commissions or other payments from franchisee purchases or third-party suppliers based on your purchases from them, we may pay you your pro rata share of such rebates, commissions or other payments based on your purchases from those third-party suppliers, except where we have agreed with the supplier to use the payment for a specific purpose (e.g., a payment earmarked for a franchise convention).

If you would like to offer products or services that are not part of the System, or purchase from a supplier who we have not consented to, you must submit a written request for consent. We have the right to inspect the proposed supplier’s facilities and test samples of the proposed products. You agree to pay to us a reasonable fee, not to exceed the actual cost of the inspection and testing the proposed product or evaluating the proposed supplier, including personnel and travel costs, whether or not the product or supplier is accepted. We have the right to grant, deny or revoke consent to products, services and suppliers in our sole discretion. We will notify you of our decision as soon as practicable, which will generally be within 60 days following our evaluation. We reserve the right to re-inspect the facilities and products of any accepted supplier and revoke acceptance upon the supplier’s failure to meet any of our then-current criteria.

Currently, neither we nor any of our affiliates are designated or approved suppliers for any category of goods or services.

The following table summarizes the approximate percentages of your purchases of equipment and supplies through sourcing restrictions, based on the nature of the restriction. The source for virtually all of your purchases is restricted in some way.

<b>REQUIRED PURCHASES FROM US</b>	<b>REQUIRED PURCHASES FROM APPROVED SUPPLIERS</b>	<b>REQUIRED PURCHASES IN ACCORDANCE WITH OUR SPECIFICATIONS AND STANDARDS</b>
Establishment – 10 %	Establishment – 40 %	Establishment – 90% -95%
Operation – 5%	Operation – 70%	Operation – 90% -95%

We negotiate system-wide purchasing to maximize the combined purchasing power benefit of all Margaritas Restaurants and reserve the right to continue to negotiate system-wide purchasing arrangements, including pricing terms, with suppliers for the benefit of all Margaritas Restaurants. We do not currently have purchasing or distribution cooperatives or purchasing agents, but we reserve the right to establish them. We do not provide material benefits to franchisees (for example, renewal of existing or granting additional franchises) based on their use of designated or approved suppliers.

There are no approved suppliers in which any of our officers own an interest.

### **Franchised Restaurant Remodeling**

In addition to ordinary upkeep, we have the right to require you to update and remodel the Franchised Restaurant to conform to the design, Trade Dress, color schemes and presentation of the Proprietary Marks that we are then requiring of new Margaritas Restaurants. You must update and remodel the Franchised Restaurant every 5 years after opening.

### **Computer System**

See Item 11 for information regarding our current minimum standards for the computer system for the Franchised Restaurant and your related obligations under the Franchised Agreement.

### **Insurance**

During the term of the Franchise Agreement(s), you must maintain in full force and effect, at your expense, that insurance which you determine to be necessary, which must include at least the types of insurance and the minimum policy limits specified in the Manual.

Our current minimum coverage is as follows:

1. Workers' Compensation and Employers' Liability Insurance with coverage in the minimum amount for each employee of \$500,000 for Bodily Injury by Accident and \$500,000 for Bodily Injury by Disease.
2. Commercial General Liability Insurance including Bodily Injury and Property Damage Coverage, Premises Coverage, Products and Completed Operations Coverage, Contractual Liability Coverage and Independent Contractor's Liability Coverage with limits not less than the following:
  - \$2,000,000 General Aggregate
  - \$2,000,000 Products and Completed Operations Aggregate
  - \$1,000,000 Each Occurrence
  - \$1,000,000 Personal and Advertising Injury

3. Commercial Automobile Insurance for all owned, non-owned and hired vehicles with a combined single limit of not less than \$1,000,000 for Bodily Injury and Property Damage Liability.
4. Liquor Law Liability Insurance with limits not less than the following:  
\$1,000,000 Each Common Cause  
\$2,000,000 Aggregate Limit
5. Umbrella Liability Insurance with limits not less than the following:  
\$2,000,000 Each Occurrence  
\$2,000,000 Products Completed Operations Aggregate  
\$2,000,000 General Aggregate
6. Employment Practices Liability Insurance with limits not less than \$100,000 Each Occurrence.

Each insurance policy must be written by an insurance company that is licensed in the state where work is to be performed and that maintains an “A++” or better rating by the latest edition of Best’s Insurance Rating Service (or another rating service designated by us). All insurance and coverages must be primary and non-contributory to any insurance coverage maintained by us. The insurance policy or policies must protect you, us and our respective past, present and future officers, directors, owners, employees, servants, representatives, consultants, attorneys and agents. We and our affiliates must be named as additional insureds in the policy or policies (statutory policies excepted). Each policy must include a waiver of subrogation in our favor. We may require additional types of coverage or increase the minimum amount of coverage upon reasonable notice. Your obligation to obtain coverage is not limited in any way by insurance that we maintain.

Your Workers’ Compensation insurance must be in effect prior to any training provided by us. You must provide to us evidence of your Workers’ Compensation insurance covering everyone attending training no later than 10 days before training commences. All other insurance must be in effect when you take possession of the Franchised Location. You must provide to us certificates of all of your insurance policies no later than 10 days before the Franchised Business opens. Furthermore, throughout the Term of this Agreement, you must provide to us current certificates of all required insurance and proof of payment evidencing that you are carrying in force all required insurance coverage insuring you and us. The evidence of insurance must include a statement by the insurer that the policy or policies will not be canceled or materially altered without at least 30 days’ prior written notice to us. If you fail to obtain and maintain insurance coverage as required by the Franchise Agreement, we have the right, but not the obligation, to obtain the required insurance on your behalf and to charge you for the cost of the insurance, plus a reasonable fee for our services in procuring the insurance.

## ITEM 9

### FRANCHISEE'S OBLIGATIONS

**This table lists your principal obligations under the Franchise and Development 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: Section 3 DA: Section 5	Items 7 and 11
b. Pre-opening purchases/leases	FA: Sections 3, 4.2, 8.12 DA: Sections 5.1, 5.3, 5.4	Items 5, 7 and 8
c. Site development and other pre-opening requirements	FA: Sections 3, 4 DA: Sections 3, 5	Items 7 and 11
d. Initial and ongoing training	FA: Section 6 DA: Section 5.1	Items 6, 7 and 11
e. Opening	FA: Sections 4.2, 4.3, 7.1, 7.2 DA: Not Applicable	Item 11
f. Fees	FA: Sections 5, 6, 10, Exhibit A DA: Section 4, Exhibit A	Items 5, 6 and 7
g. Compliance with standards and policies/Manual	FA: Sections 8, 12 DA: Not Applicable	Items 8, 11, and 14
h. Trademarks and proprietary information	FA: Sections 10.7, 11, 17 DA: Section 10.1	Items 13 and 14
i. Restrictions on products/services offered	FA: Sections 8.3, 8.6 DA: Not Applicable	Items 8 and 16
j. Warranty and customer service requirements	FA: Sections 8.9, 8.10, 8.11 DA: Not Applicable	Item 11
k. Territorial development and sales quotas	FA: Sections 1.1, 1.2, Exhibit A DA: Sections 1.1, 2, 3, Exhibit A	Item 12
l. Ongoing product/service purchases	FA: Sections 8.3, 8.6, 8.18 DA: Not Applicable	Items 8 and 11
m. Maintenance, appearance and remodeling requirements	FA: Sections 8.7, 8.8 DA: Not Applicable	Item 8
n. Insurance	FA: Section 8.12 DA: Not Applicable	Items 6, 7 and 8
o. Advertising	FA: Section 10 DA: Not Applicable	Items 6 and 11
p. Indemnification	FA: Section 22 DA: Section 13	Item 6
q. Owner's participation/management/staffing	FA: Sections 8.10, 8.11 DA: Section 6	Items 11 and 15
r. Records and reports	FA: Sections 5.4, 9 DA: Not Applicable	Item 6

Obligation	Section in Franchise Agreement (FA) and Development Agreement (DA)	Disclosure Document Item
s. Inspections and audits	FA: Sections 4.1, 4.2, 8.6.4, 8.13, 9.4, 11.3.6 DA: Not Applicable	Items 6, 8, and 11
t. Transfer	FA: Sections 14, 15 DA: Sections 7, 8	Items 6 and 17
u. Renewal	FA: Section 2.2 DA: Not Applicable	Item 17
v. Post-termination obligations	FA: Section 20 DA: Section 11.3	Item 17
w. Non-competition covenants	FA: Section 17 DA: Section 10	Item 17
x. Dispute resolution	FA: Section 29 DA: Section 18	Item 17
y. Other: Guaranty of obligations	FA: Exhibit D DA: Exhibit C	Item 15
z. Other: Spousal Non-Disclosure and Non-Competition Agreement	Not Applicable	Item 15 and Exhibit H

## ITEM 10

### FINANCING

We do not offer any direct or indirect financing. We do not guarantee your note, lease or obligation.

## ITEM 11

### FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING

Except as listed below, MFC is not required to provide you with any assistance.

#### MFC's Pre-Opening Obligations

Before you open the Franchised Restaurant, we will:

1. Provide you with our site selection guidelines and review your site report for a proposed site. For each proposed site, before you commit to acquire a site, you must notify us of the proposed site and submit financial proformas, a description of the site and a site review report, including photographs, demographic information, psychographic information (including a profile of the people living and working in the area and their propensity to spend money on food and beverage), site characteristics (including access and egress points and the amount of road traffic), other restaurant options in the area, and any other information that we may require, including, but not limited to, a letter of intent or other evidence satisfactory to us, which confirms your favorable prospects for obtaining

the site. If the site report is acceptable, we reserve the right to conduct one on-site evaluation of the proposed site before deciding whether to give our consent. Within 60 days after receipt of these documents, and any information which we may reasonably require, we will advise you in writing whether we consent to the site. If we and you cannot agree on a site, we will not issue a Franchise Agreement. (Development Agreement § 5.2)

2. Review the proposed sublease, lease or purchase contract for the accepted site to ensure that it includes the provisions we require as set forth in the Franchise Agreement. We do not own, sell, or lease business locations for our franchisees. (Franchise Agreement § 3; Development Agreement § 5.3)

3. Furnish you with prototypical plans and specifications for a Margaritas Restaurant, including requirements for dimensions, design, image, interior layout, décor, equipment and signs. At your cost, You must adapt our prototypical plans and specifications to suit the shape and dimensions of the Franchised Location and ensure that your proposed plans for the Franchised Restaurant (“Plans”) comply with all applicable ordinances, building codes and permit requirements, lease requirements and restrictions and the Americans with Disabilities Act. You must use only registered architects, registered engineers and professional and licensed contractors. You must submit the Plans to us and revise the Plans as we require. Once we consent to the Plans, you may not change the Plans without our approval. (Franchise Agreement § 4.1)

4. Conduct a final inspection of the Franchised Restaurant, if we choose to conduct one, after receiving your notice that you have complied with your obligations under the Franchise Agreement, and provide you with our express written approval to open the Franchised Restaurant if we determine that you have satisfied such obligations. (Franchise Agreement § 4.2.2)

5. Loan you one copy of, or provide you with electronic access to, the Manual, which contains detailed standards, specifications, instructions, forms, reports and procedures for management and operation of the Franchised Restaurant. You may keep the Manual for as long as the Franchise Agreement (or any Successor Franchise Agreement) remains in effect, but the Manual remains our property. We may revise the contents of the Manual, and you agree to comply with each new or changed section. (Franchise Agreement § 12). The current Table of Contents of the Manual is attached as Exhibit E. As of December 20, 2022, the Manual contained 655 pages.

6. Provide consultation and advice to you as we deem appropriate with regard to construction or renovation and operation of the Franchised Restaurant, building layout, furnishings, fixtures and equipment plans and specifications, employee selection and training, purchasing and inventory control and those other matters as we deem appropriate. We will provide you with assistance in determining Mexican décor needs to decorate the Franchised Restaurant, place the Mexican décor package order, arrange shipping and delivery, and assist you in the installation of certain décor pieces upon the décor package truck delivery from our selected vendors in Mexico. This order may contain certain fixtures and materials used in lighting or tiling the Franchised Restaurant to provide an authentic Mexican appearance. We will also provide you with a list of approved products and suppliers along with recommended opening orders for establishing initial food, beverage, paper goods, glassware and small wares inventory. (Franchise Agreement § 7.1.)

7. Provide you the services of an “Opening Team” of trainers for your first newly-developed Franchised Restaurant, for a period of 14 to 21 days to assist you in the opening of the Franchised Restaurant and to assist you in training your non-managerial employees. We also provide you Opening Teams for your subsequently developed franchised restaurants. The number of trainers

provided will vary based on variables and specific requirements of your location. For your fourth and subsequently developed franchised restaurants, we will determine, in our sole discretion, whether to provide an Opening Team, the size of any Opening Team and the length of time the Opening Team will assist. You must pay for all travel, meals, excluding alcohol, and lodging in addition to a \$20.00 per day miscellaneous expense reimbursement for each of the Opening Team trainers during each of these training periods. You must provide any necessary personnel, each of whom must have successfully completed our training program, in addition to our Opening Team. (Franchise Agreement § 7.2.)

8. Provide to you (and your Operating Principals) a 3 to 5 day Owners Orientation at our designated training facilities in Dover, New Hampshire; Augusta, Maine; and Framingham, Massachusetts. We will not authorize the Franchised Restaurant to open until you (and your Operating Principals) have attended and successfully completed the Owners Orientation. The Owners Orientation for you (and for your Operating Principal) must be completed 10 weeks prior to opening. There is no training fee for the Owners Orientation, however, you must pay all salaries, benefits, travel, living and other expenses incurred by you and (and your Operating Principals) while attending the training. (Area Development Agreement §5.5)

9. Provide to you (or your Operating Principal), the Franchised Restaurant's general manager, two bartenders, and any managerial personnel that we designate the IFOP. Our training program is described below. (Franchise Agreement § 6.1)

### **MFC's Obligations After Opening**

During the operation of the Franchised Restaurant, we will:

1. Collect, administer and spend for advertising purposes monies paid by franchisees and company-operated Margaritas Restaurants into the Brand Fund and any Regional Advertising Fund (if established) as described below. (Franchise Agreement §§ 10.3 and 10.4)

2. Provide, or make available, a marketing manual, guidelines for creating a marketing plan, scripts and branding tools. (Franchise Agreement § 10.5.2)

3. Periodically change the System, including modification to the Manual, the menu, the required equipment, the signs, the Proprietary Marks and the Trade Dress. You must accept, use or display in the Franchised Restaurant any such System changes and make such expenditures as the System changes require. We also have the right to vary System standards, in our reasonable judgment, to accommodate circumstances of individual franchisees. We periodically will provide you suggested retail prices for the products and services offered at the Franchised Restaurant and, to the extent permitted by applicable law, we may require that you adhere to our suggested prices, including maximum prices. (Franchise Agreement §§ 8.2, 8.3)

4. Provide additional ongoing training to you (or your Operating Principal), your managerial personnel, training personnel and/or other previously trained and experienced staff members at the times and locations that we designate. (Franchise Agreement § 6.2)

5. Periodically advise and consult with you regarding the operation of the Franchised Restaurant and make available, as we believe necessary, information regarding the System and new developments, techniques and improvements in the areas of restaurant design, operations, management, sales and customer service, marketing and other areas. We may provide these services

through visits by our representatives to the Franchised Restaurant or your offices, the distribution of printed or filmed material, an Intranet or other electronic forum, meetings or seminars, training programs, telephone communications or other forms of communications. (Franchise Agreement § 7.3)

6. Conduct inspections of (and photograph and record) the Franchised Location and the Franchised Restaurant, interview your employees, suppliers and customers and review your business records if we choose to do so. (Franchise Agreement § 8.13)

### **Brand Fund and Marketing**

**Grand Opening Plan.** You must conduct initial marketing for the Franchised Restaurant in accordance with a grand opening plan that you have prepared and to which we have consented (“Grand Opening Plan”). The Grand Opening Plan will require you to spend a minimum of \$10,000 on grand opening activities over the period beginning one month prior to opening and continuing through the second month after opening. Guidelines for grand opening activities will be included in the Manual. At our request, you must submit appropriate documentation to verify compliance with this obligation.

**Advertising Obligation.** You have an Advertising Obligation in the amount set forth in an appendix to the Franchise Agreement. Your current Advertising Obligation is 2% of Gross Sales. Your Advertising Obligation may be allocated to a Brand Fund, a Regional Advertising Fund and/or local marketing. Currently, your Advertising Obligation is allocated as follows: 1.5% to local marketing and .5% to the Brand Fund.

Under the terms of your franchise agreement, the Advertising Obligation will be no more than 4% of Gross Sales, unless subsequently modified by us. Following written notice to you, we have the unilateral right to increase your Advertising Obligation; however, once we establish a Regional Advertising Fund that covers the Franchised Location, we will not increase the Advertising Obligation by more than 0.5% of Gross Sales in any 12 month period. You must pay your Advertising Obligation to the Brand Fund and, if established, a Regional Advertising Fund, at the same time and in the same manner as the Royalty.

**Brand Fund.** We may use the Brand Fund Contributions and any earnings of the Brand Fund for any costs associated with advertising, marketing, public relations, promotional programs and materials (which may be national or regional in scope) and/or any other activities that we believe would benefit the System, including the following: advertising campaigns in various media; point-of-purchase materials; review of locally-produced ads; free standing inserts; brochures; purchasing and/or developing promotional materials; market research, including secret shoppers; loyalty programs, sponsorships; design and maintenance of a web site; celebrity endorsements; trade shows; association dues; search engine optimization costs; establishment of a third party facility for customizing local advertising; accounting costs; other related costs; and holding an annual franchisee convention. We will not use the Brand Fund for any activity whose sole purpose is the marketing of franchises; however, you acknowledge that the Margaritas web site, public relations activities, community involvement activities and other activities that may be supported by the Brand Fund may contain information about franchising opportunities. We have the right to direct all programs supported by the Brand Fund, with final discretion over creative concepts, the materials and media used in the programs and their placement. We do not guarantee that you will benefit from the Brand Fund in proportion to your contributions to the Brand Fund.

We will deposit all contributions to the Brand Fund in an account separate from our other funds and will not use them to defray any of our general operating expenses, except for reasonable administrative costs and overhead that we incur in activities reasonably related to the administration of the Brand Fund or the management of Brand Fund-supported programs (including salaries of our personnel who devote time to Brand Fund activities).

Any point-of-sale materials produced with Brand Fund monies will be made available to you at a reasonable cost, and the proceeds of such sales will be credited to the Brand Fund. We are not required to have an independent audit of the Brand Fund completed. We will make available an unaudited statement of contributions and expenditures for the Brand Fund no sooner than 90 days after the close of our prior fiscal year to franchisees who make a written request for a copy. In our most recent fiscal year, 202~~23~~, we spent Advertising Brand Funds collected as follows: Marketing Agency ~~34.7~~16.5%, Loyalty Marketing Program ~~0~~33.0%, ~~Other Advertising 43.1%~~, Production/Photography ~~0~~6.0%, Promotional Event ~~9.4~~6.0%, ~~Marketing R & D 0%~~, ~~Legal .7%~~, Administrative ~~7.2~~15%, ~~T-Shirts 10.7%~~, and ~~Software 12.8%~~. In 202~~23~~, we spent ~~94.8~~100% of the Brand Fund.

Margaritas Restaurants owned by us or our affiliates (“Company-Owned Restaurants”) must contribute to the Brand Fund on the same basis as comparable franchisees. In spending advertising monies, we are not obligated to make expenditures for any franchisee that are equivalent or proportionate to that franchisee’s contribution or to ensure that any particular franchisee benefits directly or on a pro rata basis from expenditures of the funds. We are not obligated to spend any amount on advertising in the area of territory in which your Franchised Restaurant is located.

**Regional Advertising Fund.** We have the right, in our sole discretion, to establish one or more regional advertising funds for Margaritas Restaurants (“Regional Advertising Funds”). We will determine the geographic area covered by a Regional Advertising Fund based on the location of Margaritas Restaurants in the area and the reach of print, radio and television media in the area. If a Regional Advertising Fund is established for a geographical area that includes the Franchised Location, you must contribute to that Regional Advertising Fund in the amount we specify. We or our designee will direct all advertising, marketing and public relations programs and activities financed by the Regional Advertising Fund, with sole discretion over the creative concepts, materials and endorsements used in those programs and activities, and the geographic, market and media placement and the allocation of advertising and marketing materials. The Regional Advertising Fund may be used to pay the costs of preparing and producing such associated materials and programs as we or our designee may determine, including video, audio and written advertising materials; employing advertising agencies; sponsorship of sporting, charitable or similar events; administering regional and multi-regional advertising programs, including, without limitation, purchasing direct mail and other media advertising and employing advertising agencies to assist with these efforts; and supporting public relations, market research and other advertising, promotional and marketing activities. You must participate in all advertising, marketing, promotions, research and public relations programs instituted by your Regional Advertising Fund.

We will separately account for each Regional Advertising Fund, but we do not need to segregate any Regional Advertising Fund monies from our other monies. We are not required to have an independent audit of the Regional Advertising Fund completed. We will make available an unaudited statement of contributions and expenditures for the Regional Advertising Fund that covers the Franchised Location no sooner than 90 days after the close of our prior fiscal year to franchisees who make a written request for a copy. Monies in a Regional Advertising Fund will be spent in the geographic area covered by the Regional Advertising Fund.

Company-Owned Restaurants in an area covered by a Regional Advertising Fund will contribute to the Regional Advertising Fund on the same basis as comparable franchisees. As of the date of this disclosure document, we have not yet established any Regional Advertising Funds.

Once established, we do not intend to use any portion of the Brand Fund or any Regional Advertising Fund to solicit new franchisees. However, Margaritas web site, public relations activities, community involvement activities and other activities that may be supported by the Brand Fund may contain information about franchise opportunities.

**Local Marketing.** You must spend that portion of the Advertising Obligation not otherwise spent or contributed to the Brand Fund or a Regional Advertising Fund for local marketing in authorized advertising media and for authorized advertising expenditures. We or our designee periodically will advise you of the authorized advertising media and authorized advertising expenditures.

You must conduct all marketing in a dignified manner and in accordance with the standards and requirements we specify periodically. We will provide you with access to a marketing manual, guidelines for creating a marketing plan, scripts and branding tools. You may be required to pay a reasonable fee for accessing and customizing local advertising and promotional materials. All advertising and promotional materials must bear the Proprietary Marks in the form, color, location and manner that we prescribe. We will have the final decision on all creative development of advertising and promotional messages.

You must submit to us in writing for our prior acceptance all sales promotion materials and advertising that have not been prepared, or previously accepted, by us. If our written consent is not received within 10 days after the date that we received the material, the material may not be used. In no event will your advertising or marketing materials contain any statement or material that, in our sole discretion, may be considered: **(a)** in bad taste or offensive to the public or to any group of persons; **(b)** defamatory of any person or an attack on any competitor; **(c)** to infringe upon the use, without permission, of any other persons' trade name, trademark, service mark or identification; **(d)** inconsistent with the public image of the System or the Proprietary Marks; or **(e)** not in accordance with any federal or state laws. We reserve the right to require you to discontinue the use of any advertising or marketing materials.

**Web Page.** You may not promote, offer or sell any products or services relating to the Franchised Restaurant through, or use any of the Proprietary Marks on, the Internet, social networking sites, or other future technological avenues without our prior written consent, which we may withhold for any or no reason. You may not establish an independent web site. If we authorize you to have and/or design a web page for the Franchised Restaurant, your web page may only be accessed from our web site and we may prohibit links between your web page and any other web site. Your web page constitutes advertising and promotion, and you must comply with the restrictions on advertising described above and any additional policies and standards we issue from time to time with respect to web sites and web pages specifically. Any copyright in your web page will be deemed to be owned by us, and you agree to sign any documents that we reasonably deem necessary to affirm our ownership of the copyright. If necessary, you must ensure cooperation with us by any web site service provider or web site hosting company with which you do business. You must have or obtain the lawful right to use any proprietary materials of others that appear on your web page. We periodically will provide to you content for your web page, including copy, news stories and photographs. We must consent to any changes to your web page.

**Public and Media Relations.** You may not issue any press or other media releases or other communications without our prior written consent. As a franchisee of the System, you may only participate in internal and external communications activities that create goodwill, enhance our public image and build the Margaritas brand. You must participate in our Loyalty Program, as we require and as described in our Manual, a program which supports customer development. Your participation will permit our unrestricted access to customer data. We restrict, designate and have the right to approve or control all of your electronic communications and social media, including Internet.

**Advertising Cooperative.** We currently do not have any advertising cooperatives and have no plans to form such cooperatives in the immediate future. However, you must join and actively participate in any organizations or associations of franchisees or advertising cooperatives that we establish or that are established at our direction for the purpose of promoting, coordinating, and purchasing advertising in local, regional, or national areas where there are multiple Margaritas Businesses.

**Franchisee Advisory Committee.** Although we do not currently have one, 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 are 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.

**Gift Card Program.** You must participate in our centralized gift card program at your expense as we require and as described in our Manual. You are responsible for printing, print preparation costs, and shipping for cards at the cost charged by our authorized vendors, as well as graphic design for any custom requests. The cost of printing may vary from \$0.30 to \$1.00 per card depending on volume. Print preparation costs vary from \$0 to \$500 depending on complexity and if new designs are requested. These costs are subject to change by the authorized vendors.

**Credit Card Program.** You must accept all brands of credit card as we require and as described in our Manual. The initial cost to set up a credit card acceptance program varies and vendors charge variable monthly fees to participate in the various programs.

## **Computer System**

Unless, upon your written request, we approve an alternative point of sale system, you must obtain and install, at your expense, the Toast point-of-sale system (the "POS System") including the Toast software version as we designate annually. Contact information for Toast is 401 Park Drive, Suite 801, Boston, Massachusetts 02115, 617-682-0225. The Toast POS System is used as the standard point of sales system, labor tracking, ticket time and menu mix information. The cost to obtain the system is typically in the range of approximately \$6,800 to \$10,000 depending on the size of your operation and options selected. In addition, monthly fees typically range from \$500 to \$700 depending on the size of your operation and options selected.

We reserve the right to require you to replace your existing POS System with one designated by us, and, in such event, we will give you a minimum of 3 years' prior notice to replace your existing POS System with a POS System designated by us, all at your sole cost. We require you to install and maintain any BOH and/or FOH software system designated by us, at your sole cost.

Currently, we do not have direct or independent access to the information and data generated or stored on the POS System, however, we reserve the right to establish such access.

Neither us, our affiliates, nor any third parties are required to provide ongoing maintenance, repairs, upgrades or updates to your computer system. If you request our technical assistance, we reserve the right to change you our then-current hourly rate for technical assistance, which is currently \$150. Currently, there are no optional or required maintenance/upgrade contracts for your POS System hardware.

You must: **(a)** maintain on the computer system only the financial and operating data specified in the Manual; **(b)** transmit data to us in the form and at the times required by the Manual; **(c)** give us unrestricted access to your computer system at all times (including IDs and passwords, if necessary) to download and transfer via secure modem or other connection as we determine; **(d)** maintain the computer system in good working order at your own expense; **(e)** replace or upgrade the computer system as we require (but not more than once a year); **(f)** install high speed Internet and/or communications connections; **(g)** ensure that your employees are adequately trained in the use of the computer system and our related policies and procedures; and **(h)** use any proprietary software and other proprietary materials that we provide to you in connection with the operation of the Franchised Restaurant and if we so require, execute a licensing agreement and pay to us a reasonable licensing fee for the use of such proprietary software. You may not install any software other than authorized upgrades or make any hardware modifications to the computer system without our express written consent. Because computer designs and functions change periodically, we may desire to make substantial modifications to our computer requirements or require installation of entirely different systems during the term of the Franchise Agreement.

You must comply with the Payment Card Industry (PCI) Data Security Standards (DSS) for processing credit card payments including scanning certifications, allowing vulnerability scans and submitting attestations of compliance and as more completely defined in our Manual. We reserve the right to require compliance with other data or privacy standards in the future.

### **Selecting the Location of Your Franchised Restaurant**

We do not select the specific site for your Franchised Restaurant. You select the site for your Franchised Restaurant, subject to our consent. We will provide you with our site selection guidelines, which may change from time to time. As noted in Item 1, you should not acquire any interest in a site for your Franchised Restaurant until we have accepted you as a franchisee and we have consented to the site in writing.

Before you commit to acquire a site, you must notify us of the proposed site and submit financial proformas, a description of the site, and a site review report, including photographs, demographic information, psychographic information (including a profile of the people living and working in the area and their propensity to spend money on food and beverage), site characteristics (including access and egress points and the amount of road traffic), other restaurant options in the area, and any other information that we may require, including, but not limited to, a letter of intent or other evidence satisfactory to us, which confirms your favorable prospects for obtaining the site. If the site review report is acceptable, we reserve the right to conduct one on-site evaluation of the proposed site before deciding whether to give our consent. Within 60 days after receipt of these documents, and any information which we may reasonably require, we will advise you in writing whether we consent to the site. Our approval of a site will be based on the size and layout of the building, accessibility, availability of adequate parking, the financial terms of any proposed lease or purchase, population density near the site, competition, local demographics, local traffic patterns and counts. If we and you cannot agree on a site, we will not issue a Franchise Agreement.

Our acceptance of a site does not constitute a representation or warranty of any kind, express or implied, of the site's suitability for a Margaritas Restaurant or any other purpose. Our acceptance indicates only that we believe that the site meets our then-current site selection criteria. Applying criteria that have appeared effective with other sites might not accurately reflect the potential for all sites, and demographic and/or other factors included in or excluded from our criteria could change, altering the potential of a site. The uncertainty and instability of these criteria are beyond our control, and we are not responsible if a site we accept fails to meet your expectations. Your submission of a proposed site for our acceptance is based on your own independent investigation of the site's suitability for a Franchised Restaurant, and our site-selection assistance is primarily for our benefit to assure us that we will have at least a minimally acceptable site upon the expiration or termination of the Franchise Agreement.

Within 45 days after we accept a proposed site for a Franchised Restaurant, you must submit to us a copy of the proposed sublease, lease, or purchase contract for that site for our acceptance.

Following acceptance of the lease, we will prepare and forward to you a Franchise Agreement for the Authorized Site. Within 10 days after you receive the Franchise Agreement, you must sign and return the Franchise Agreement to us, along with the franchise fee and a copy of the Authorized and signed Lease. You must open the Franchised Restaurant for business at the accepted Franchised Location no later than 360 days after we have signed the Franchise Agreement.

### **Typical Time Between Agreement Signing and Opening**

The typical length of time between signing of the Franchise Agreement and the opening of the Franchised Restaurant ranges from 9 to 12 months. Factors affecting the length of time between the execution of the Franchise Agreement and the opening of the Franchised Restaurant include the sourcing of economically viable sites, site plan and building permit approvals, obtaining any site licenses and government approvals, constructing the building and site improvements, weather variations and hiring and training managers and hourly employees.

### **Training**

**Initial Franchise Operations Program.** Before the Franchised Restaurant opens for business, you (or your Operating Principal), the Franchised Restaurant's general manager, two bartenders, and any managerial personnel that we designate must attend, and become certified in the IFOP. The length of the IFOP is 11 weeks for your first Franchised Restaurant, which includes a 15 day Key Bar Person and a 15 day Key Kitchen Person training. The length of the IFOP for the opening of your subsequent Franchised Restaurants, if any, is 9 weeks. The IFOP will include Schoox LMS (a virtual learning management system platform) classroom instruction and on-the-job training. We offer the IFOP during the year on an as-needed basis. We will provide the IFOP at a Company-Owned Restaurant and/or at one of our designated training facilities in Dover, New Hampshire; Augusta, Maine; and Framingham, Massachusetts. The primary instructors conducting training programs are the General Managers of the certified manager training locations identified above. Occasionally, the individuals instructing the training may vary, but all of our Training Restaurant General Managers have at least 6 years of relevant work experience.

We will not authorize the Franchised Restaurant to open until those employees that we designate have attended and successfully completed the IFOP to our satisfaction. As a prerequisite of the IFOP, attendees must successfully complete a ServSafe food safety training and certification program administered by the National Restaurant Association Educational Foundation. The IFOP for

you (or for your Operating Principal) and the Franchised Restaurant’s general manager must be completed six weeks prior to opening.

There is no training fee for the IFOP, however, you must pay all salaries, benefits, travel, living and other expenses incurred by you and your employees while attending the training. We have the right to dismiss from the IFOP any person whom we believe will not perform acceptably in the position for which he/she has been hired, and you must provide a suitable replacement within 30 days of dismissal. In such event, we will have no obligation to extend the Opening Date.

If you (or your Operating Principal) fail to complete the IFOP to our satisfaction, we may terminate the Franchise Agreement or permit you (or your Operating Principal) to repeat the IFOP at the next available scheduled training session however, we will have no obligation to extend the Opening Date. We reserve the right to charge a training fee if you (or your Operating Principal) are required to repeat the IFOP.

The following chart summarizes the subjects taught during IFOP:

**TRAINING PROGRAM**

**OPERATING PRINCIPAL TRAINING**

<b>SUBJECT</b>	<b>HOURS OF CLASSROOM TRAINING</b>	<b>HOURS OF ON-THE-JOB TRAINING</b>	<b>LOCATION</b>
BOH Kitchen Training	50	150	Virtual; Company-Owned Restaurant or Designated Training Facility
Server Training	10	40	Virtual; Company-Owned Restaurant or Designated Training Facility
Bar Training	10	40	Virtual; Company-Owned Restaurant or Designated Training Facility
Admin/Leadership Training	30	70	Virtual; Company-Owned Restaurant or Designated Training Facility
Expo Functions	10	40	Virtual; Company-Owned Restaurant or Designated Training Facility

**KEY BAR PERSON TRAINING**

SUBJECT	HOURS OF CLASSROOM TRAINING	HOURS OF ON-THE-JOB TRAINING	LOCATION
Server Training	10	35	Virtual; Company-Owned Restaurant or Designated Training Facility
Bar Training	15	90	Virtual; Company-Owned Restaurant or Designated Training Facility

#### KITCHEN KEY PERSON TRAINING

SUBJECT	HOURS OF CLASSROOM TRAINING	HOURS OF ON-THE-JOB TRAINING	LOCATION
BOH Prep Training	15	35	Virtual; Company-Owned Restaurant or Designated Training Facility
BOH Cooking Station Training	25	75	Virtual; Company-Owned Restaurant or Designated Training Facility

**Ongoing Training; Training of Replacement Personnel.** We may require you (or your Operating Principal), your managerial personnel, training personnel and/or other previously trained and experienced staff members to attend and complete satisfactorily various training courses that we periodically choose to provide at the times and locations that we designate, as well as periodic conventions, regional meetings, and conferences that we specify. We may charge reasonable registration or similar fees for these courses. You must pay all salaries, benefits, travel, living and other expenses incurred by you and your employees during all training courses and programs.

We require that your replacement managerial and training personnel satisfactorily complete our training programs within the time period required by the Manual after being designated as managerial or training personnel. We reserve the right to require you to pay a tuition fee for this training.

Any specific ongoing training or advice we provide does not create an obligation (whether by course of dealing or otherwise) to continue to provide such specific training or advice, all of which we may discontinue and modify from time to time.

**Training Materials and Methods.** All training materials that we provide to you remain our property. Except for the IFOP, we have the right to provide training programs in person, on DVD, via the Internet, in printed or electronic format or by other means, as we determine. You must provide each employee in training with the Training Materials. Your cost of printing the Training Materials will vary depending of the number of employees hired.

**Certified Training Center.** Prior to the opening of your third Franchised Restaurant, you must establish a Certified Training Center that meets the guidelines specified in the Manual.

## ITEM 12

### TERRITORY

#### Development Agreement

Under the Development Agreement, you will receive a Development Area, which will be mutually agreed upon by MFC and you. A description of the Development Area will be attached as an exhibit to the Development Agreement. For each proposed site developed under the Development Agreement, before you commit to acquire a site, you must notify us of the proposed site and submit the required document detailed in Item 11. If the site review report is acceptable, we will advise you in writing whether we consent to the site.

Nothing in the Development Agreement prohibits us from: **(1)** operating, and/or licensing others to operate restaurants identified in whole or in part by the Proprietary Marks and/or utilizing the System in the Development Area that are located in gas stations or convenience stores; transportation facilities, including airports, train stations, subways and rail and bus stations; military bases and government offices; sports facilities, including stadiums and arenas; amusement parks, zoos and convention centers; car and truck rest stops and travel centers; educational facilities; recreational theme parks; hospitals; business or industrial foodservice venues; venues in which foodservice is or may be provided by a master concessionaire or contract foodservice provider; Indian reservations; casinos; or any similar captive market location; **(2)** awarding national, regional or local licenses to third parties to sell products in the Development Area under the Proprietary Marks in foodservice facilities primarily identified by the third party's trademark; **(3)** merchandising and distributing goods and services identified by the Proprietary Marks in the Development Area through any method or channel of distribution, including the Internet, wholesale, mail order and catalog, other than through the operation of restaurant; **(4)** selling and distributing products identified by the Proprietary Marks in the Development Area to restaurants other than restaurants identified by the Proprietary Marks, provided those restaurants are not licensed to use the Proprietary Marks in connection with their retail sales; **(5)** offering catering services in the Development Area whether or not in conjunction with the Proprietary Marks; **(6)** developing and/or owning other franchise systems for the same or similar products and services using trade names and trademarks other than the Proprietary Marks; and **(7)** purchasing, being purchased by, merging or combining with, businesses that offer direct competition to Margaritas Restaurants.

Except as reserved in the paragraph above, we will not, during the term of the Development Agreement, operate or franchise others to operate Margaritas Restaurants in the Development Area, provided you are in compliance with the terms of the Development Agreement and any other agreements with us or our affiliates and you are current on all obligations due to us and our affiliates. The Development Agreement does not prohibit us or our affiliates from: **(1)** operating and licensing others to operate, during the term of the Development Agreement, Margaritas Restaurants at any location outside of the Development Area; **(2)** operating and licensing others to operate, after the Development Agreement terminates or expires, Margaritas Restaurants at any location, including locations inside the Development Area; and **(3)** operating and licensing others to operate at any location, during or after the term of the Development Agreement, any type of restaurant other than a Margaritas Restaurant.

If we acquire another system that has restaurants in the Development Area, we reserve the right to continue to operate them, either directly or through franchisees, provided the restaurants are not identified by the Proprietary Marks.

You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control.

Except as expressly limited above, we and our affiliates have the right to conduct any business activities, under any name, in any geographic area and at any location, regardless of the proximity to the Development Area or the economic effect on the Franchised Restaurants or activities under the Development Agreement.

Neither we nor our affiliates have established, or presently intend to establish, other franchised or company-owned restaurants that offer Mexican food or similar products or services under a different trade name or trademark, but we reserve the right to do so in the future without your consent.

Continuation of your Development Area does not depend on your achieving a certain sales volume, market penetration or other contingency. However, if you are in default of the Development Agreement (which may include, but is not limited to, a default for failing to comply with the Development Schedule) or any Franchise Agreement and fail to cure the default within the applicable cure period (if any), we may terminate the Development Agreement and the limited exclusivity in the Development Area, or other remedy as provided in the Development Agreement. There are no other circumstances in which we can unilaterally modify the Development Area.

There are no restrictions on the areas in which you or we may advertise or solicit customers, nor must we compensate you if we solicit or accept orders from inside the Development Area. The rights we reserve include the right to use any other channel of distribution, including the Internet, to make sales in the Development Area using the Proprietary Marks or different proprietary marks.

### **Franchise Agreement**

You will not receive any exclusive territory under the Franchise Agreement. You may face competition from other franchisees, from outlets that we own and/or operate, or from other channels of distribution or competitive brands that we control. You select the location for your Franchised Restaurant, subject to our consent. If you are under a Development Agreement the location must be in the Development Area. You will not be granted a minimum territory for your Franchised Restaurant. You do not receive any right under the Franchise Agreement to develop additional Franchised Restaurants. Our prior written consent is required before you relocate the Franchised Restaurant.

You may only sell or distribute products identified by some or all of the Proprietary Marks from the Franchised Location; you may not use any other method or channel of distribution. We do not impose any geographic restrictions on your ability to solicit customers. You may advertise, solicit customers and accept orders from outside your territory. There are no restrictions on our ability to solicit customers, nor must we compensate you if we solicit or accept orders. We reserve the right to merchandise and distribute goods and services identified by the Proprietary Marks (or different proprietary marks) through any method or channel of distribution, including the Internet. You may not promote, offer or sell any products or services relating to the Franchised Restaurant through, or use any of the Proprietary Marks on the Internet, social networking sites, or other future technological

avenues, catalogs or telemarketing without our prior written consent, which we may withhold for any or no reason.

**ITEM 13**

**TRADEMARKS**

We grant you the right to operate a restaurant under the name “Tio Juan’s Margaritas Mexican Restaurant” and to use the Proprietary Marks in the operation of your Franchised Restaurant. By Proprietary Marks, we mean the “Tio Juan’s Margaritas Mexican Restaurant” name and mark and certain other names, marks, logos, insignias, slogans, emblems, symbols and designs that we have designated, or may in the future designate, for use with the System. We have the right, upon reasonable notice to you, to change, discontinue or substitute any of the Proprietary Marks and adopt new Proprietary Marks for use with the System without any liability for any diminishment of the System. You must implement any such change at your expense within the time that we specify.

MMGI, is the owner of the Proprietary Marks. We have entered into a license agreement with MMGI, which grants us a 99 year license to use, and license others to use, the Proprietary Marks. MMGI is the registered owner of the principal Proprietary Marks identified in the table below. These principal Proprietary Marks have been registered with the United States Patent and Trademark Office (“PTO”) on the Principal Register, and all required affidavits of continued use have been filed and accepted.

Mark	Registration No.	Registration Date
	2,218,623	January 19, 1999
	4,076,8444,079,836	<del>December 27, 2011</del> January 3, 2012
TIO JUAN'S MARGARITAS MEXICAN RESTAURANT	4,079,8364,076,844	<del>January 3, 2012</del> December 27, 2011
	4,241,019	November 13, 2012

Mark	Registration No.	Registration Date
<a href="#">CANCUN PIZZA</a>	<a href="#">7,128,400</a>	<a href="#">August 1, 2023</a>

The trademarks have been renewed and affidavits have been filed with the USPTO as required.

We will provide you guidelines for the use of the Proprietary Marks. You must follow our guidelines and rules when you use the Proprietary Marks. You cannot use the Proprietary Marks in any manner not authorized by us or in any corporate or legal name. You cannot use any other trade names, service marks or trademarks in conjunction with the Franchised Restaurant.

There are no presently effective material determinations of the PTO, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court relating to the principal Proprietary Marks. There are no pending infringement, opposition or cancellation proceedings or material litigation involving the principal Proprietary Marks. There are no agreements currently in effect that significantly limit our right to use or license the use of the Proprietary Marks in any manner material to you. We do not know of either superior prior rights or infringing uses that could materially affect your use of the principal Proprietary Marks in any state.

The Franchise Agreement does not contain any provisions under which we are required to defend or indemnify you against any claims of infringement or unfair competition arising out of your use of the Proprietary Marks. The Franchise Agreement does require that you notify us promptly of any unauthorized use of the Proprietary Marks and any challenge by any person or entity to the validity of, our ownership of, or our right to use, any of the Proprietary Marks. We have the right, but not the obligation, to initiate, direct and control any litigation or administrative proceedings relating to the Proprietary Marks, including any settlement. You must sign all documents and provide any other assistance we believe is necessary for the defense or prosecution of any such litigation or proceeding. You may not, directly or indirectly, contest, or aid in contesting, the validity, or our ownership, of the Proprietary Marks.

Because your telephone listings, e-mail address, and social media accounts will be associated with the Proprietary Marks, we will own all rights to these communications sources, and all goodwill generated from the use of these sources will inure to our benefit.

**ITEM 14**

**PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

We do not own any patents or copyrights, nor do we have any pending patent applications, that are material to your Franchised Restaurant or the System; however, we claim copyright protection in the Manual and certain forms, architectural engineering and construction plans, advertising materials, product specifications, computer programs, newsletters, training materials and operations and accounting materials. We have not registered those materials with the United States Registrar of Copyrights.

The Manual and these other materials contain our detailed standards, specifications, instructions, forms, reports, and procedures for the management and operation of the Franchised

Restaurant. You must treat the Manual, training materials and any other manuals or materials created or approved by us for use with the System as secret and confidential. You may not modify, copy, duplicate or otherwise reproduce the Manual or other materials provided by us. In addition, you may not make any confidential information or materials supplied by us available to any unauthorized person without our prior written consent.

You may not communicate, divulge or use for any purpose other than the operation of the Franchised Restaurant any confidential information, knowledge, trade secrets or know-how that may be communicated to you or that you may learn by virtue of the Franchise Agreement and/or the Development Agreement or the operation of the Franchised Restaurant. You may divulge confidential information only to your professional advisers, your employees who must have access to the information to develop or operate the Franchised Restaurant, your contractors and your landlords, provided that you obtain our prior approval. All information, knowledge and know-how relating to us, our business plans or the System are deemed confidential, except information that you can demonstrate came to your attention by lawful means prior to our disclosure, or that, at the time of our disclosure to you, had become a part of the public domain. You must require your employees and any other person or entity to whom you wish to disclose any confidential information to sign agreements providing that they will maintain the confidentiality of the disclosed information. The agreements must be in a form satisfactory to us and must identify us as a third-party beneficiary with the independent right to enforce the agreements.

## **ITEM 15**

### **OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

You are not obligated to participate personally in the day-to-day operation of the Franchised Restaurant. Each Franchised Restaurant must, however, at all times, be under the personal, on-premises supervision of one of the following designated individuals, who must meet our applicable training qualifications for their position: the Operating Principal, a general manager, an assistant manager, a kitchen manager, or, for specific, limited periods of time, as authorized by us, a shift leader. At all times that a Franchised Restaurant is open for business, at least one person must be on site who has been trained in ServSafe food safety and completed any other locally-required safety or health training.

If you are a business entity, you must appoint an individual to serve as your Operating Principal. The Operating Principal must be accepted by us, must devote full-time and best efforts to supervising the operation of the Franchised Restaurant and must be an Owner. The Operating Principal must complete the IFOP training program, have authority over all business decisions related to the Franchised Restaurant and have authority to bind you in your dealings with us. We will provide all services to, and communicate primarily with, the Operating Principal. You must obtain our prior written consent before you change the Operating Principal. If the Operating Principal no longer qualifies as such, you must designate another qualified person to act as the Operating Principal within 30 days after the date the prior Operating Principal ceases to be qualified. Other than the Operating Principal, the on-premises supervisor is not required to have an equity interest in the franchise.

You or the Operating Principal must remain active in overseeing the operations of the Franchised Restaurant, including without limitation, regular, periodic visits to the Franchised Restaurant and sufficient communications with us to ensure that the Franchised Restaurant's operations comply with the operating standards as promulgated by us from time to time in the Manual or otherwise in written or oral communications.

Persons who must attend training will be identified in the Notice of Key Employees, attached as Exhibit E to the Franchise Agreement. A Key Employee is anyone who is an owner, partner, and/or employee who acts in a management or supervisory capacity for the Franchised Restaurant. Anyone required to attend training cannot have an interest in or business relationship with any business competitive with the Margaritas concept. Except to the extent prohibited by the laws of the state where the Franchised Restaurant is located or where the employee lives or works, they must also sign a non-disclosure and non-competition agreement in a form that we approve that requires them to maintain confidentiality of the trade secrets described in Item 14 and to conform with the covenants not to compete described in Item 17.

If you are a business entity, all direct or indirect holders of an equity interest in you of 5% or more must personally guarantee your obligations under the Franchise Agreement. A copy of the Personal Guaranty is attached as Exhibit D to the Franchise Agreement and as Exhibit C to the Area Development Agreement.

If you are a business entity, all direct or indirect holders of an equity interest in you of 5% or more must agree to be personally bound by the confidentiality and non-competition restrictions described in Item 17 and must sign an Owner's Acknowledgment. We do not require a spouse or domestic partner of the owner to sign the Franchise Agreement nor provide a personal guaranty; however we do require that your spouse or domestic partner sign a Spousal Non-Disclosure and Non-Competition Agreement; our current form is attached as Exhibit H to this Disclosure Document.

## ITEM 16

### RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You must use the Franchised Location solely for the operation of the Franchised Restaurant and maintain sufficient inventories, adequately staff each shift with qualified employees and continuously operate the Franchised Restaurant at its maximum capacity and efficiency for the minimum number of days and hours set forth in the Manual or as we otherwise specify in writing (subject to the requirements of local laws and licensing requirements). You must offer for sale and sell in the Franchised Restaurants all and only the products and services that are expressly authorized by us in the Manual or otherwise in writing. We have the right to change the menu items, ingredients, products, materials, supplies and paper goods or the standards and specifications of each, and there is no limit on our ability to do so. We do not limit the customers to whom you may sell goods or services.

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**ITEM 17**

**RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION  
THE FRANCHISE RELATIONSHIP**

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

**THE DEVELOPMENT AGREEMENT**

<b>Provision</b>	<b>Section In Development Agreement</b>	<b>Summary</b>
a. Length of the franchise term	Section 1.1	The Development Term begins on the effective date of the Development Agreement and terminates on the first to occur of: (a) the date that the last Franchised Restaurant is required to be opened pursuant to the Development Schedule; or (b) the date that the last Franchised Restaurant required by the Development Schedule opened for business.
b. Renewal or extension of the term	Not Applicable	
c. Requirements for you to renew or extend	Not Applicable	
d. Termination by you	Not Applicable	
e. Termination by us without cause	Not Applicable	
f. Termination by us with cause	Section 11.1, 11.4.1	We may terminate upon default (subject to local state law). You will be entitled to complete and open a Franchised Restaurant for which a Franchise Agreement has been executed by you. Termination or expiration of the Development Agreement will not affect your right to continue to operate Franchised Restaurants that were open and operating as of the date the Development Agreement terminated or expired.
g. "Cause" defined - curable defaults	Section 11.1.13	You have 15 days to cure defaults other than those discussed in Sections 11.1.1 to 11.1.12 of the Development Agreement.
h. "Cause" defined – non-curable defaults	Sections 11.1.1 – 11.1.12	Non-curable defaults include: failure to comply with the Development Schedule (including failure to meet Site Acceptance Dates or Opening Dates); commencement of construction before you sign the Franchise Agreement for that location; insolvency; bankruptcy; execution levied against your business or property; material breach of Section 10 (Covenants); transfer without approval; material misrepresentation; falsification of reports; conviction or no contest plea to a crime likely to harm the System or our goodwill; default beyond cure period under any agreement is a non-curable default under all agreements; default beyond cure period under any agreement with us or our affiliates, real estate lease, equipment lease or financing instrument relating to a Franchised Restaurant or any agreement with any vendor or supplier to a Franchised

Provision	Section In Development Agreement	Summary
		Restaurant; received 2 or more notices of default within any 12-month period.
i. Your obligations on termination/non-renewal	Section 11.3	Obligations include, but are not limited to: loss of right to develop; termination of rights in Development Area; return of materials to us; continued observance of covenants; payment of amounts due to us and our affiliates; and forfeiture of Development Fee.
j. Assignment of contract by us	Section 7	There are no restrictions on our right to assign, <u>change our ownership or form.</u>
k. "Transfer" by you-defined	Section 8.1	Includes sale, assignment, transfer, conveyance, give away, pledge, mortgage or other encumbrance of any interest in you (if you are a business entity), the Development Agreement or any other assets pertaining to your operations under the Development Agreement.
l. Our approval of transfer by you	Section 8.2	If you propose to undertake a Transfer, you must obtain our prior written consent. The decision as to whether to consent to a Transfer will be made in the exercise of our business judgment, but our consent will not be unreasonably withheld.
m. Conditions for our approval of transfer	Sections 8.3, 8.4	<p>If you propose to transfer all or substantially all of your interest in the Development Agreement, conditions include: compliance with the Development Agreement and any other agreement with us, our affiliates, any lenders that have provided financing pursuant to an arrangement with us and your major suppliers; payment of applicable transfer fee (see Item 6); simultaneous transfer of same interest with respect to all agreements with us in Development Area; qualified transferee; sign assignment agreement or our then-current standard form of development agreement for a term ending on the expiration date of the Development Agreement and any other agreements including guaranty, we require; sign general release; sign owner's acknowledgment; and reasonable sales price.</p> <p>If you propose to transfer a partial interest in your company or business, conditions include: provide notice; submit copies of all proposed contracts and other information that we request; pay applicable transfer fee (see Item 6); compliance with Development Agreement and any other agreement with us, our affiliate, any lenders that have provided financing pursuant to an arrangement with us and your major suppliers; sign general release; and if applicable, sign owner's acknowledgment; and comply with governing documents requirements.</p>
n. Our right of first refusal to acquire your business	Section 8.9	We have the right, exercisable within 30 days after we receive your notice of transfer, to send written notice to you that we intend to purchase the interest proposed to be transferred. Our right of first refusal will not apply to transfers for convenience of ownership or transfers to your spouse or adult son or daughter as a result of death or permanent incapacity, provided that the transferee meets all criteria required for new franchisees.
o. Our option to purchase your business	Not Applicable	

Provision	Section In Development Agreement	Summary
p. Your death or disability	Section 8.6	If the transfer is a transfer of ownership interests in you after the death or permanent incapacity of an owner, that person's executor, administrator or personal representative must apply to us within 3 months for consent to transfer the person's interest. All conditions of transfer apply (see m. above). If the deceased or incapacitated person was the Operating Principal or your general manager, we have the right (but not the obligation) to take over the development of the Franchised Restaurants until the transfer is completed and charge a reasonable management fee. If the interest is not disposed of within 6 months after the event, we may terminate the Development Agreement.
q. Non-competition covenants during the development term	Section 10.2	No interest in any restaurant business that sells Mexican cuisine or whose method of operation or trade dress is similar to that employed in the System ("Competitive Business"). In addition, you may not divert any business or customer to any Competitive Business (subject to state law).
r. Non-competition covenants after the franchise is terminated or expires	Section 10.3	For 2 years following the expiration, termination or transfer of the Development Agreement, no interest in any Competitive Business that is located within 10 miles of the border of the Development Area or within 10 miles of any other Margaritas Restaurant. In addition, you may not, for 2 years after expiration, termination or transfer of the Development Agreement, sell, assign, lease or transfer any Authorized Site to any person or entity that intends to operate a Competitive Business at that Authorized Site (subject to state law).
s. Modification of the agreement	Section 16	No modification generally without signed agreement, but we may modify the System.
t. Integration/merger clause	Section 16	Only the terms of the Development Agreement and the documents referred to are binding (subject applicable to state law). Any representation or promise made outside the Disclosure Document and Development Agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	Not Applicable	
v. Choice of forum	Section 18.2	Subject to state law, you can only file suit where our principal offices are located (currently New Hampshire), and we may file suit in the jurisdiction where our principal offices are located or in the jurisdiction where you reside or do business or where the Development Area or any Franchised Restaurant is or was located or where the claim arose (subject to state law).
w. Choice of law	Section 18.1	Subject to state law, New Hampshire applies, except Section 10 (Covenants) will be governed by the laws of the state in which the Development Area is located. If the Development Area is located in more than one state, Section 10 will be governed by the laws of the applicable state that would uphold those provisions of the Agreement (subject to state law).

## FRANCHISE AGREEMENT

Provision	Section In Franchise Agreement	Summary
a. Length of the franchise term	Section 2.1	10 years from the date the Franchised Restaurant opens.
b. Renewal or extension of the term	Section 2.2	You will have the option to obtain two successor franchise terms, each of which will be for a period of 5 years, unless we decided to stop franchising the Margaritas concept or withdraw the Margaritas concept from the geographic market in which the Franchised Restaurant is located.
c. Requirements for you to renew or extend	Section 2.2	<p>Conditions include: providing timely notice; substantial compliance with expiring franchise agreement; not be in default under any agreement with us or our affiliates; not be in default beyond the applicable cure period under any real estate lease, equipment lease or financing instrument relating to the Franchised Restaurant or any agreement with any vendor or supplier to the Franchised Restaurant; secure the right from your landlord to continue operating at the Franchised Restaurant for the full term of the successor franchise agreement; renovate and modernize the Franchised Restaurant to reflect the then-current image of Margaritas Restaurants; sign a general release; and complete any additional training that we require.</p> <p>Also as a condition of renewal you also must sign our then-current form of Franchise Agreement, the terms of which likely will differ materially from your original Franchise Agreement, including, without limitation, those relating to royalty fees and advertising obligations.</p>
d. Termination by you	Not Applicable	
e. Termination by us without cause	Not Applicable	
f. Termination by us with cause	Section 19	We may terminate upon default (subject to local state law). If we terminate your Franchise Agreement, we shall have the right to terminate all of the other agreements between us and you, including the Development Agreement, if any.
g. "Cause" defined - curable defaults	Section 19.2	You have 15 days to cure defaults other than those discussed in Section 19.1 of the Franchise Agreement.
h. "Cause" defined – non-curable defaults	Section 19.1	Non-curable defaults include: failure to complete the IFOP training; failure to open the Franchised Restaurant by the Opening Date; insolvency; bankruptcy; execution levied against your business or property; foreclosure; material breach of covenants; unauthorized transfer; material misrepresentation; conviction or no contest plea to a crime that is likely to harm the System's reputation or our goodwill; interference with our relations with third parties or our ability to license the System and Proprietary Marks or any other system or marks to a third party; default beyond the applicable cure period under any agreement with us or our affiliates, any real estate lease, equipment lease or financing instrument relating to the Franchised Restaurant or any agreement with any vendor or supplier to the Franchised Restaurant; refuse to permit audit; receipt of 2 or more notices of default within any 12 month period; conditions that seriously

Provision	Section In Franchise Agreement	Summary
		jeopardize public health or safety; loss of right to operate at the Franchised Location and failure to secure our acceptance of another site within required time period; and failure to operate the Franchised Restaurant for 3 or more consecutive days, or 5 total days.
i. Your obligations on termination/non-renewal	Section 20	Obligations include: immediately cease to operate the Franchised Restaurant and refrain from holding yourself out as a present or former franchisee of the System; cease to use the System, the Proprietary Marks and the Manual; pay all sums due to us, our affiliates and your suppliers; cease to use in any manner the confidential methods, procedures and techniques associated with the System; continue to abide by the covenants; cease to use the Proprietary Marks and all other distinctive signs and names associated with the System; cancel any assumed name or equivalent registration, and any domain name registration containing the Proprietary Marks; complete de-identification (if we do not exercise our option to purchase); deliver to us the Manual and all training materials, marketing materials, records, files, instructions and correspondence containing confidential information; deliver to us all customer information you have compiled and uninstall any software that we have provided; and assign all Listings associated with the Proprietary Mark or the Franchised Restaurant, if we so elect.
j. Assignment of contract by us	Section 14	There are no restrictions on our right to assign, <a href="#">change our ownership or form.</a>
k. "Transfer" by you-defined	Section 15.1	Includes sale, assignment, transfer, conveyance, give away, pledge, mortgage or other encumbrance of any interest the Franchise Agreement, the Franchised Restaurant, the Franchised Location, the lease for the Franchised Restaurant, the assets of the Franchised Restaurant, your ownership interests (if you are a business entity) or any other assets pertaining to your operations under the Franchise Agreement.
l. Our approval of transfer by you	Section 15.2	If you propose to undertake a Transfer, you must obtain our prior written consent. The decision as to whether to consent to a Transfer will be made in the exercise of our business judgment, but our consent will not be unreasonably withheld.
m. Conditions for our approval of transfer	Sections 15.3, 15.4	If you propose to undertake a Transfer, the conditions for our approval include: compliance with the Franchise Agreement and any other agreement with us, our affiliates, any lenders that have provided financing pursuant to an arrangement with us and your major suppliers; payment of applicable transfer fee (see Item 6); simultaneous Transfer of your Development Agreement (if still in effect) and your other Margaritas Franchise Agreements; submit a copy of all contracts and all other agreements or proposals and submit all information requested by us; qualified transferee; sign assignment agreement or our then-current standard form of franchise agreement for a term ending on the expiration date of the Franchise Agreement and any other agreements including guaranty, we require; modernize and upgrade the Franchised Restaurant; sign general release; and, if applicable, sign owner's

Provision	Section In Franchise Agreement	Summary
		<p>acknowledgment; and reasonable sales price and other proposed terms.</p> <p>If you propose to transfer a partial interest in your company or business, conditions include: provide notice; submit copies of all proposed contracts and other information that we request; pay transfer fee (see Item 6); compliance with Franchise Agreement and any other agreement with us, our affiliate, any lenders that have provided financing pursuant to an arrangement with us and your major suppliers; sign assignment agreement or our then-current standard form of franchise agreement for a term ending on the expiration date of the Franchise Agreement and any other agreements we require; sign general release; and, if applicable, sign owner's acknowledgment; and submit a personal application.</p>
n. Our right of first refusal to acquire your business	Section 15.9	We have the right, exercisable within 30 days after we receive your notice of transfer, to send written notice to you that we intend to purchase the interest proposed to be transferred. Our right of first refusal will not apply to transfers for convenience of ownership or transfers to your spouse or adult son or daughter, provided that the transferee meets all criteria for new franchisees.
o. Our option to purchase your business	Section 21	We have the right, exercisable within 30 days after the effective date of termination or expiration, to purchase some or all of the Assets used in the Franchised Restaurant. We have the unrestricted right to assign this option to purchase your business. The purchase prices of the Assets shall be their fair market value determined as of the effective date of purchase in a manner that accounts for reasonable depreciation and condition of the Assets. We may exclude from the Assets purchased any equipment, vehicles, furnishings, fixtures, signs and inventory that do not meet our then-current standards.
p. Your death or disability	Section 15.6	If the transfer is a transfer of ownership interests in you after the death or permanent incapacity of an owner, that person's executor, administrator or personal representative must apply to us within 3 months for consent to transfer the person's interest. All conditions of transfer apply (see m. above). If the deceased or incapacitated person was the Operating Principal or your general manager, we have the right (but not the obligation) to take over the operation of the Franchised Restaurants until the transfer is completed and charge a reasonable management fee. If the interest is not disposed of within 6 months after the date of death or appointment of a personal representative, we may terminate the Franchise Agreement.
q. Non-competition covenants during the term of the franchise	Section 17.2	No interest in any restaurant business that sells Mexican cuisine or whose method of operation or trade dress is similar to that employed in the System ("Competitive Business"). In addition, you may not divert any business or customer to any Competitive Business (subject to state law).
r. Non-competition covenants after the franchise is	Section 17.3	For 2 years following the expiration or termination of the Franchise Agreement, no interest in any Competitive Business that is located within 10 miles of the Franchised Location or within

Provision	Section In Franchise Agreement	Summary
terminated or expires		10 miles of any other Margaritas Restaurant. In addition, you may not, for 2 years after expiration, termination or transfer of the Franchise Agreement, sell, assign, lease or transfer the Franchised Location to any person or entity that intends to operate a Competitive Business at that Authorized Site (subject to state law).
s. Modification of the agreement	Section 27	No modification generally without signed agreement, but we may modify the System.
t. Integration/merger clause	Section 27	Only the terms of the Franchise Agreement, the documents referred to and the Manual are binding (subject applicable to state law). Any representation or promise made outside the Disclosure Document and Franchise Agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	Not Applicable	
v. Choice of forum	Section 29.2	Subject to state law, you can only file suit where our principal offices are located, and we may file suit in the jurisdiction where our principal offices are located or in the jurisdiction where you reside or do business or where the Franchised Restaurant is or was located or where the claim arose (subject to state law).
w. Choice of law	Section 29.1	Subject to state law, New Hampshire applies, except that Section 17 (Covenants) will be governed by the laws of the state in which the Franchised Restaurant is located (subject to state law).

ITEM 18

PUBLIC FIGURES

We do not use any public figure to promote the sale of 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 this 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.

Fiscal Year 2022~~3~~ Financial Performance  
Company-Operated Restaurants  
TABLE 1

Fiscal Year ending Dec. 25 <del>31</del> , 2022 <del>3</del>	All Locations (1)		Top 50% Net Sales 89 Locations		Bottom 50% Net Sales 9 Locations		Median	
Net Sales (3) (4)	\$2,234,10 42,364,881	100.00%	\$2,771,023 2,819,256	100.00%	\$1,756,843 1,810,250	100.00%	\$1,923,917 1,948,075	100.00%
Cost of Sales (5)	\$586,239 560,133	26.24 23.69%	\$746,964 688,996	25.87 24.44%	\$470,039 431,270	26.75 23.82%	\$519,177 466,362	26.99 23.94%
Labor (6)	\$664,335 689,163	29.74 29.14%	\$799,725 817,014	28.86 28.98%	\$543,987 561,311	30.96 31.01%	\$630,910 603,633	32.79 30.99%
Prime Cost	\$1,250,573 1,249,296	55.98 52.83%	\$1,516,689 1,506,010	54.73 53.42%	\$1,014,026 992,581	57.72 54.83%	\$1,150,087 1,069,995	59.78 54.93%
Semi Controllable Costs								
Supplies (7)	\$84,176 80,238	3.77 3.39%	\$96,968 90,970	3.50 3.23%	\$72,805 69,507	4.14 3.84%	\$75,347 60,835	3.92 3.12%
Utilities (8)	\$103,616 109,498	4.64 4.63%	\$118,178 121,348	4.26 4.30%	\$90,673 97,648	5.16 5.39%	\$103,456 80,293	5.38 4.12%
Restaurant R&M (9)	\$41,511 48,107	1.86 2.03%	\$55,568 54,904	2.01 1.95%	\$29,015 41,310	1.65 2.28%	\$24,837 28,220	1.29 1.45%
Other Operating Expense (11)	\$117,566 129,105	5.26 5.46%	\$124,184 135,573	4.48 4.81%	\$111,683 122,637	6.36 6.77%	\$121,571 100,407	6.32 5.15%
Non Controllable Costs (12)	\$164,974 233,347	7.38 9.87%	\$196,698 172,727	7.10 6.13%	\$136,769 193,712	7.78 10.70%	\$135,638 127,912	7.05 6.57%
EBITDAR (2)	\$471,691 515,290	21.11 21.79%	\$662,738 737,724	23.92 26.17%	\$301,872 292,855	17.18 16.18%	\$312,979 480,413	16.27 24.66%
Beverage percent of Gross Sales (13)		40.45 40.80%		39.78 40.75%		41.63 40.88%		40.90 41.13%
<b>Adjustments to franchise outlets:</b>								
Royalties & brand fund contribution	-122,876 130,068	-5.50%	-152,406 155,059	-5.50%	-96,626 99,564	-5.50%	-105,815 107,144	-5.50%
Adjusted EBITDAR	\$348,816	15.61	\$510,331	18.42	\$205,246	11.68	\$207,163	10.77 19.16%

	385,222	16.29%	582,665	20.67%	193,291	10.68%	373,269
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## NOTES

- (1) **Rounding of Numbers.** The amounts reflected in the table are averages of the actual results of the company-owned locations in operation during fiscal year 2023 that were operating at least six days per week.
- (2) **EBITDAR.** EBITDAR equals restaurant level earnings before income taxes, depreciation, amortization and rent. It does not include franchise fees.
- (3) **Variations in Sales.** Variations in the sales levels of restaurants may occur due to the foot/vehicular traffic where the restaurants are located, the populations and income of the immediate market area, the retail maturity in the area, the amount of competition in the area, and numerous other factors.
- (4) **Sales.** Sales include sales of all food and beverages, net of sales taxes, discounts and coupons.
- (5) **Total Cost of Sales.** The cost of sales includes cost of all food and beverages. You will have the opportunity to take advantage of volume discounts on particular items and purchasing contracts negotiated by us. However, availability of such volume discounts and negotiated purchasing contracts may be limited to the geographic areas in which we currently operate Margaritas Restaurants. The cost of items such as produce, which are often purchased locally, may vary according to the location of the restaurant. Additionally, freight, shipping costs and the amount of mark-up imposed by local suppliers will also vary.
- (6) **Labor.** Labor for a restaurant generally necessitates a range of 25 - 50 employees, including both full-time and part-time workers. This category includes amounts for payroll taxes, vacation pay, management salary, management bonus, training, and employee benefits. This category assumes 1 designated General Manager, 1-3 Assistant General Managers and 1-2 hourly shift leaders. These expenses include amounts for payroll taxes and vacation pay. Management bonuses and benefits include amounts for manager performance bonuses, worker's compensation insurance, 401(k) employer contributions and group medical, dental and life insurance expenses. A franchisee's benefits cost will vary depending on the amount of vacation time granted, the amount and type of insurance coverage provided to employees, the size of the franchisee's total employment base and specific state and/or local requirements. The costs of labor and related payroll expenses may vary substantially depending on the geographic location of the restaurant, state and or local minimum wage requirements.
- (7) **Supplies.** Supplies include the costs of paper supplies, guest supplies, lighting supplies, glassware, smallwares, office supplies, seasonal decorations, ice purchases, bottled gases, cleaning supplies, chemicals and detergents, small furnishings, first aid and other miscellaneous supplies.
- (8) **Utilities.** Utilities include the costs of electricity, gas/heating fuel, water and sewer, waste removal, telephone and pay telephones, e-communications and cable TV. The costs of utility expenses may vary substantially depending on the geographic location of the restaurant.

- (9) **Restaurant R&M.** Restaurant R&M includes all repairs made at the restaurant level, including but not limited to HVAC, building, equipment, and property.
- (10) **G&A Allocated R&M.** This represents all corporate G&A related to R&M that Margaritas allocated back to its restaurants. This includes salary, benefits, and travel of all corporate employees who work in the Maintenance department.
- (11) **Other Operating Expenses.** Other operating expenses include the costs of repairs and maintenance, employee parties or awards, knife sharpening, laundry, pest control, cleaning services, fines and penalties, equipment leases, local marketing, cash variance, credit card fees, bank service fees, security systems, background music, plant care, and miscellaneous other operating expenses. The costs of other operating expenses may vary substantially depending on the geographic location of the restaurant.
- (12) **Non Controllable Expenses.** Non controllable expenses include amounts for marketing expenses, commercial insurances, licensing and permitting expenses, professional fees, miscellaneous other operational expenses, and income/expense from non-operational activities such as ATMs or juke box. Under your Franchise Agreement, you are required to spend a minimum of 2% of Gross Revenues on local advertising and Brand Fund marketing.

**Beverage Percent of Gross Sales.** This category includes all alcohol (liquor, beer, wine) beverage sales.

**Fiscal Year 2022<sup>3</sup> Financial Performance  
Franchised Restaurants  
TABLE 2**

**Franchised Tio Juan’s Margaritas Restaurants: 2022<sup>3</sup> Gross Revenue**

Number of Franchised Businesses (open 24 – 36 months)	<u>76</u>
Range of Gross Revenue	<u>\$728,912,719,438 to \$3,886,3784,140,463</u>
Average Annual Gross Revenue	<u>\$2,304,7282,467,588</u>
Median Annual Gross Revenue	<u>\$2,150,3052,660,126</u>
Number of Franchised Businesses Greater Than Average	3 or <u>42.8650%</u>

Written substantiation of the information used in preparing this financial performance representation will be made available to you upon reasonable request. However, we will disclose the identity, revenue or other items of income or expense of any particular company-operated restaurant only in connection with the sale of that restaurant.

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

Other than the preceding financial performance representation MFC does not make any representations about a franchisee’s future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to

make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Thomas Radomski, Vice President of Franchise Development, MFC, 273 Locust Street, Suite 200, Dover, New Hampshire 03820, (603) 498-0496, the Federal Trade Commission, and the appropriate state regulatory agencies.

## ITEM 20

### OUTLETS AND FRANCHISEE INFORMATION

**Table No. 1**  
**Systemwide Outlet Summary**  
**Fiscal Years 2020<sup>1</sup> to 2023<sup>1</sup>**

Column 1 Outlet Type	Column 2 Year	Column 3 Outlets at Start of Year	Column 4 Outlets at End of Year	Column 5 Net change
Franchised <b>(1)</b>	<a href="#">2020</a>	7	7	0
	2021	7	7	0
	2022	7	7	0
	<a href="#">2023</a>	7	6	-1
Company-Owned <b>(1)</b>	<a href="#">2020</a>	19	18	-1
	2021	18	18	0
	2022	18	18	0
	<a href="#">2023</a>	18	19	+1
Total Outlets <b>(1)</b>	<a href="#">2020</a>	26	25	-1
	2021	25	25	0
	2022	25	25	0
	<a href="#">2023</a>	25	25	0

### NOTES

- (1)** All numbers are as of MMGI's fiscal year end (ending on the last [Monday/Sunday](#) of December).

**Table No. 2**  
**Transfers of Outlets From Franchisees to New Owners**  
**(Other than MFC)**  
**For Years 2020<sup>1</sup> to 2023<sup>1</sup> (1)**

Column 1 State	Column 2 Year	Column 3 Number of Transfers
NJ	<a href="#">2020</a>	0
	2021	0
	2022	2
	<a href="#">2023</a>	<u>0</u>
Total Outlets	<a href="#">2020</a>	0
	2021	0
	2022	2
	<a href="#">2023</a>	<u>0</u>

**NOTES**

(1) All numbers are as of MFC's fiscal year end (ending on the last [Monday/Sunday](#) of December).

**Table No. 3**  
**Status of Franchised Outlets**  
**For Years 2020<sup>1</sup> to 2023<sup>1</sup>**

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of Year	Col. 4 Outlets Opened	Col. 5 Terminations	Col. 6 Non- Renewals	Col. 7 Reacquired by MFC	Col. 8 Ceased Operations – Other Reasons	Col. 9 Outlets at End of the Year
ME	<a href="#">2020</a>	4	4	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	<a href="#">2023</a>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
NJ	<a href="#">2020</a>	3	0	0	0	0	4	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	<a href="#">2023</a>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
PA	<a href="#">2020</a>	3	0	0	0	0	0	3
	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
	<a href="#">2023</a>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>2</u>
Total	<a href="#">2020</a>	7	4	0	0	0	4	7
	2021	7	0	0	0	0	0	7
	2022	7	0	0	0	0	0	7
	<a href="#">2023</a>	<u>7</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>6</u>

**NOTES**

- (1) All numbers are as of MFC’s fiscal year end (ending on the last MondaySunday of December).

**Table No. 4  
Status of Company-Owned Outlets  
For Years 20201 to 20223 (1)(2)**

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of Year	Col. 4 Outlets Opened	Col. 5 Outlets Reacquired from Franchisees	Col. 6 Outlets Closed	Col. 7 Outlets Sold to Franchisees	Col. 8 Outlets at End of Year
CT	<u>2020</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
	<u>2023</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
MA	<u>2020</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5</u>
	2021	5	0	0	0	0	5
	2022	5	0	0	0	0	5
	<u>2023</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5</u>
ME	<u>2020</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>3</u>
	2021	3	0	0	0	0	3
	2022	3	0	0	0	0	3
	<u>2023</u>	<u>3</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>4</u>
NH	<u>2020</u>	<u>9</u>	<u>0</u>	<u>0</u>	<u>4</u>	<u>0</u>	<u>8</u>
	2021	8	0	0	0	0	8
	2022	8	0	0	0	0	8
	<u>2023</u>	<u>8</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>8</u>
Total	<u>2020</u>	<u>49</u>	<u>0</u>	<u>0</u>	<u>4</u>	<u>0</u>	<u>48</u>
	2021	18	0	0	0	0	18
	2022	18	0	0	0	0	18
	<u>2023</u>	<u>18</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>19</u>

**NOTES**

- (1) All numbers are as of MMGI’s fiscal year end (ending on the last MondaySunday of December).
- (2) If multiple events occurred affecting a Margaritas Restaurant, this table shows the event that occurred last in time.

**Table No. 5**  
**Projected Openings as of December 31, 202~~23~~<sup>24</sup>**

<b>Column 1 State</b>	<b>Column 2 Franchise Agreements Signed but Outlet Not Opened</b>	<b>Column 3 Projected New Franchised Outlets in the Next Fiscal Year (1)</b>	<b>Column 4 Projected New Company- Owned Outlets in the Next Fiscal Year</b>
<del>Maine</del> New Jersey	0	0 <del>1</del> <sup>1</sup>	4
Total	0	0 <del>1</del> <sup>1</sup>	4

The name, address, and telephone number of our current franchisees, as of December 26~~31~~<sup>31</sup>, 202~~23~~<sup>23</sup>, are listed below.

[remainder of page intentionally left blank]

List of Current Franchisees:

**Maine**

**Ellsworth**

Margs Mex Ellsworth LLC  
Dave Reesman  
191 Main Street  
Ellsworth, ME 04605  
207-813-0013

**Orono**

Margs Mex Orono LLC  
Dave Reesman  
15 Mill Street  
Orono, ME 04473  
207-866-4863

**New Jersey**

**Metuchen:**

Dia Foods LLC  
Sanjay Patel, Agam Vaidya, Dipak Patel  
52 N. Lafayette Avenue  
Metuchen, NJ 08840

**Toms River:**

Krish Foods, LLC  
Sanjay Patel, Agam Vaidya, Dipak Patel  
270 Rt. 37E  
Toms River, NJ 08753

**Pennsylvania**

~~**Collegeville:**~~

~~MARC-M Collegeville, LLC  
Daniel Christy and Franco D'Andrea  
Providence Town Center, Pad 6  
350 Water Loop Drive  
Collegeville, PA 19426  
610-831-5700 \*~~

**Langhorne:**

MARC-M Langhorne, LLC  
Daniel Christy and Franco D'Andrea  
198 North Buckstown Road  
Langhorne, PA 19154 \*

267-358-5106

**Lansdale:**

MARC-M Lansdale, LLC  
Daniel Christy and Franco D'Andrea  
1650 Sumneytown Pike  
Lansdale, PA 19446  
215-362-2266 \*  
\*Area Developer

List of Franchisees Who Left the System:

**Collegeville:**

MARC-M Collegeville, LLC  
Daniel Christy and Franco D'Andrea  
Providence Town Center, Pad 6  
350 Water Loop Drive  
Collegeville, PA 19426  
610-831-5700 \* (Ceased Operations)

**Metuchen:**

WB Dinning LLC  
Samik Patel  
Hemang Patel  
Metuchen, NJ 08840  
732-549-0442 (Transfer)

**Toms River:**

Garden State Dinning, LLC  
Samik Patel  
Hemang Patel  
Toms River, NJ 08753  
732-505-1400 (Transfer)

During the last three years no confidentiality clause was signed with a franchisee that would restrict them from speaking openly about their experiences with us.

Below list any franchisee who have been transferred, terminated, canceled or who otherwise voluntarily or involuntarily ceased to do business or who have not communicated with us within 10 weeks of the effective 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 have not created, sponsored or endorsed any trademark specific franchisee organization nor have any independent franchisee organizations asked to be included in this disclosure document.

## ITEM 21

### FINANCIAL STATEMENTS

Attached to this disclosure document as Exhibit D are audited financial statements for MFC as of December 31, 2023, December ~~2625~~, 2022, and December ~~2726~~, 2021 ~~and December 28, 2020~~. Our fiscal year ends on the last Monday~~Sunday~~ of December. ~~Our unaudited interim financial statement for the period ending February 19, 2023 is also attached as Exhibit D.~~

~~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 AN OPINION WITH REGARD TO THE CONTENT OR FORM.~~

## ITEM 22

### CONTRACTS

The following agreements related to a Franchised Restaurant are attached as exhibits to this disclosure document:

- |           |  |
|-----------|--|
| Exhibit B | Area Development Agreement<br>With Exhibits:<br>A – Development Information<br>B – Owner's Acknowledgment<br>C – Guaranty Agreement<br>D – Form of Release of Claims   |
| Exhibit C | Franchise Agreement<br>With Exhibits:<br>A – Franchise Information<br>B – Pre-Authorized Bank Transfer<br>C – Owner's Acknowledgment<br>D – Guaranty Agreement<br>E – Notice of Key Employee<br>F – Weekly Advertising Obligation<br>G – Form of Release of Claims |
| Exhibit H | Spousal Non-Disclosure and Non-Competition Agreement   |

~~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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.~~

## ITEM 23

### RECEIPT

The last two pages of this disclosure document are detachable receipt pages. Please sign and date each of them as of the date you received this disclosure document and return one copy to us.

***EXHIBIT A***

***LIST OF STATE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS***

**STATE REGULATORY AUTHORITIES AND AGENTS FOR SERVICE OF PROCESS**

Our registered agent in the State of Delaware:

Corporate Service Company  
2711 Centerville Road  
Suite 400  
Wilmington, DE

STATE	AGENCY	PROCESS, IF DIFFERENT
<p>California Toll-free (866) 275-2677 Email: <a href="mailto:Ask.DFPI@dfpi.ca.gov">Ask.DFPI@dfpi.ca.gov</a> <a href="http://www.dfpi.ca.gov">www.dfpi.ca.gov</a></p>	<p>Department of Financial Protection and Innovation Toll-free (866) 275-2677 Email: Ask.DFPI@dfpi.ca.gov www.dfpi.ca.gov</p> <p>Los Angeles 320 West 4th Street, Suite 750 Los Angeles, CA 90013</p> <p>Sacramento 2101 Arena Blvd. Sacramento, CA 95834</p> <p>San Diego 1455 Frazee Road, Suite 315 San Diego, CA 92108</p> <p>San Francisco 1 Sansome Street, Suite 600 San Francisco, CA 94104</p>	<p>Commissioner of Financial Protection and Innovation</p> <p>Los Angeles 320 West 4th Street, Suite 750 Los Angeles, CA 90013</p> <p>Sacramento 2101 Arena Blvd. Sacramento, CA 95834</p> <p>San Diego 1455 Frazee Road, Suite 315 San Diego, CA 92108</p> <p>San Francisco 1 Sansome Street, Suite 600 San Francisco, CA 94104</p>
<p>Hawaii</p>	<p>Securities Examiner 335 Merchant Street, Room 203 Honolulu, HI 96813</p>	<p>Commissioner of Securities 335 Merchant Street, Room 203 Honolulu, HI 96813</p>
<p>Illinois</p>	<p>Franchise Division Office of Attorney General 500 South Second Street Springfield, IL 62706</p>	
<p>Indiana</p>	<p>Franchise Section Indiana Securities Division Secretary of State, Room E-111 302 W. Washington Street Indianapolis, IN 46204</p>	<p>Administrative Office of the Secretary of State 201 State House Indianapolis, IN 46204</p>
<p>Maryland</p>	<p>Office of Attorney General Securities Division 200 St. Paul Place Baltimore, MD 21202-2021</p>	<p>Maryland Securities Commissioner 200 St. Paul Place Baltimore MD 21202-2021</p>
<p>Michigan</p>	<p>Consumer Protection Division Antitrust and Franchise Franchised Business Michigan Dept of Attorney General 670 G. Mennen Williams Building 525 West Ottawa</p>	

STATE	AGENCY	PROCESS, IF DIFFERENT
	Lansing, MI 48933	
Minnesota	Minnesota Department of Commerce 85 7 <sup>th</sup> Place East, Suite 280 St. Paul, MN 55101 651-539-1600	
New York	New York State Dept of Law Bureau of Investor Protection and Securities 28 Liberty St., 21 <sup>st</sup> Fl. New York, NY 10005 212-416-8222	Secretary of State State of New York One Commerce Plaza 99 Washington Avenue Albany, NY 12231
North Dakota	Office of Securities Commissioner 600 East Boulevard Avenue State Capital 14 <sup>th</sup> Floor Bismarck, ND 58505-0510	North Dakota Securities Department 600 East Boulevard Avenue State Capital 14th Floor Dept 414 Bismarck, ND 58505-0510
Oregon	Department of Insurance and Finance Corporate Securities Section Labor and Industries Building Salem, OR 97310	
Rhode Island	Division of Securities 1511 Pontiac Avenue John O. Pastore Complex Bldg. 69-1 Cranston RI 02920	
South Dakota	Department of Labor and Regulations Division of Securities 124 S Euclid, Suite 104 Pierre, SD 57501-	
Virginia	State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street, 9th Floor Richmond, VA 23219	Clerk of the State Corporation Commission 1300 East Main Street , 1 <sup>st</sup> Floor Richmond, VA 23219
Washington	<a href="#">Washington State</a> Department of Financial Institutions Securities Division P.O. Box <a href="#">903341200</a> Olympia, WA 98507- <a href="#">1200</a> (360) 902-8760	Department of Financial Institutions Securities Division 150 Israel Road SW Tumwater, WA 98501 (360) 902-8760
Wisconsin	Securities and Franchise Registration Division of Securities 4 <sup>th</sup> Floor 345 W. Washington Ave Madison, WI 53703	

***EXHIBIT B***  
***AREA DEVELOPMENT AGREEMENT***

**TIO JUAN'S MARGARITAS MEXICAN RESTAURANT  
AREA DEVELOPMENT AGREEMENT**

\_\_\_\_\_  
Area Developer

\_\_\_\_\_  
Effective Date

\_\_\_\_\_  
Development Area

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- Exhibit A – Development Information
- Exhibit B – Owner’s Acknowledgment
- Exhibit C – Guaranty Agreement
- Exhibit D – Form of Release of Claims

## **TIO JUAN'S MARGARITAS MEXICAN RESTAURANT AREA DEVELOPMENT AGREEMENT**

This Area Development Agreement ("Agreement") is made as of this \_\_\_\_\_ day of \_\_\_\_\_ ("Effective Date") by and between Margaritas Franchising Corp. ("Margaritas", "we" or "us"), a Delaware Corporation with a principal business address at 273 Locust Street, Suite 200, Dover, New Hampshire 03820, and \_\_\_\_\_ ("Area Developer", "you" or "your"), a(n) \_\_\_\_\_ with a principal business address at \_\_\_\_\_, and if the Area Developer is a partnership, corporation or limited liability company, also with each of its partners, shareholders, trustees, or members.

### **RECITALS**

We and our affiliates have developed a distinctive format, appearance and set of specifications and operating procedures (collectively, "System") relating to the development, establishment and operation of restaurants that feature Mexican cuisine with authentic Mexican influences served in a casual, festive atmosphere ("Margaritas Restaurants").

The distinguishing characteristics of the System include, but are not limited to, our menu items, recipes and food preparation, and service techniques; our authentic Mexican décor, layout, hand-crafted furnishings, color schemes and designs (collectively, "Trade Dress"); our standards and specifications for equipment, equipment layouts and interior and exterior accessories; and the accumulated experience reflected in our training program, operating procedures and standards and specifications. We may periodically change, improve, add to and further develop the elements of the System.

The System is identified by means of the "Tio Juan's Margaritas Mexican Restaurant" name and mark and certain other names, marks, logos, insignias, slogans, emblems, symbols and designs (collectively, "Proprietary Marks") that have been designated, or may in the future be designated, for use with the System. We have the exclusive right to use, and permit our franchisees to use, the Proprietary Marks. We may modify the Proprietary Marks used to identify the System, including the principal Proprietary Marks.

You wish to be granted the opportunity, subject to the terms and conditions of this Agreement, to develop franchised Margaritas Restaurants ("Franchised Restaurants") within a certain geographic area described in attached Exhibit A ("Development Area").

You understand and acknowledge the importance of our high and uniform standards of quality, operations and service and the necessity of developing and operating the Franchised Restaurants in strict conformity with this Agreement and our confidential operating manuals ("Manual").

You acknowledge and agree that, in the administration of this Agreement and in taking actions with respect to our relationship with you, We must take into account the needs of the System, and the effect upon the System as a whole, and the need to protect the Marks for the benefit of the System.

We are willing to grant you the opportunity to develop Franchised Restaurants in the Development Area, subject to the terms and conditions of this Agreement.

**NOW THEREFORE**, in consideration of our grant to you of the right to develop Franchised Restaurants in the Development Area during the term of this Agreement, as well as the mutual covenants, agreements and obligations set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

The Recitals are incorporated herein by reference.

## **1 DEVELOPMENT RIGHTS AND OBLIGATIONS**

**1.1 Grant and Development Area.** We hereby grant to you, subject to the terms and conditions of this Agreement, the right to develop Franchised Restaurants within the Development Area as set forth in attached Exhibit A during the term of this Agreement (“Development Term”). The Development Term begins on the Effective Date and terminates on the first to occur of: **(a)** the date that the last Franchised Restaurant is required to be opened pursuant to the development schedule in attached Exhibit A (“Development Schedule”); or **(b)** the date that the last Franchised Restaurant required by the Development Schedule is opened for business; unless this Agreement is terminated at an earlier date as provided in Section 11. There is no renewal term for this Agreement. You may only develop a Franchised Restaurant at a specific location accepted by us in the Development Area (“Authorized Site”).

**1.2 Development Rights Only.** This Agreement is not a license or franchise agreement. It does not give you the right to operate Margaritas Restaurants or use the System or the Proprietary Marks, nor does it give you any right to license others to operate Margaritas Restaurants. This Agreement only gives you the opportunity to enter into Franchise Agreements for the operation of Franchised Restaurants at Authorized Sites. Each Franchised Restaurant developed pursuant to this Agreement must be established and operated only in strict accordance with a separate Franchise Agreement.

**1.3 Forms of Agreement.** You acknowledge that, over time, we have entered, and will continue to enter, into agreements with other area developers and franchisees that may contain provisions, conditions and obligations that differ from those contained in this Agreement. The existence of different forms of agreement and the fact that we and other area developers and franchisees may have different rights and obligations does not affect our or your duties to comply with the terms of this Agreement.

## **2 LIMITED TERRITORIAL PROTECTION**

**2.1** Nothing in this Agreement prohibits us from: **(a)** operating, and/or licensing others to operate, restaurants identified in whole or in part by the Proprietary Marks and/or utilizing the System in the Development Area that are located in gas stations or convenience stores; transportation facilities, including airports, train stations, subways and rail and bus stations; military bases and government offices; sports facilities, including stadiums and arenas; amusement parks, zoos and convention centers; car and truck rest stops and travel centers; educational facilities; recreational theme parks; hospitals; business or industrial foodservice venues; venues in which foodservice is or may be provided by a master concessionaire or contract foodservice provider; Indian reservations; casinos; or any similar captive market location; **(b)** awarding national, regional or local licenses to third parties to sell products in the Development Area under the Proprietary Marks in foodservice facilities primarily identified by the third party’s trademark; **(c)** merchandising and distributing goods and services identified by the Proprietary Marks in the Development Area through any method or channel of

distribution, including the Internet, wholesale, mail order and catalog, other than through the operation of a restaurant; **(d)** selling and distributing products identified by the Proprietary Marks in the Development Area to restaurants other than restaurants identified by the Proprietary Marks, provided those restaurants are not licensed to use the Proprietary Marks in connection with their retail sales; **(e)** offering catering services in the Development Area whether or not in conjunction with the Proprietary Marks; **(f)** developing and/or owning other franchise systems for the same or similar products and services using trade names and trademarks other than the Proprietary Marks; and **(g)** purchasing, being purchased by, merging or combining with, businesses that offer direct competition to Margaritas Restaurants.

**2.2** Except as reserved in the preceding paragraph, we will not, during the Development Term, operate or franchise others to operate Margaritas Restaurants in the Development Area, provided you are in compliance with the terms of this Agreement and any other agreements with us or our affiliates and you are current on all obligations due to us and our affiliates. This Section 2 does not prohibit us or our affiliates from: **(a)** operating and licensing others to operate, during the Development Term, Margaritas Restaurants at any location outside of the Development Area; **(b)** operating and licensing others to operate, after this Agreement terminates or expires, Margaritas Restaurants at any location, including locations inside the Development Area; and **(c)** operating and licensing others to operate at any location, during or after the Development Term, any type of restaurant other than a Margaritas Restaurant.

**2.3** If we acquire another system that has restaurants in the Development Area, we reserve the right to operate them, either directly or through franchisees, provided the restaurants are not identified by the Proprietary Marks.

**2.4** Except as expressly limited by this Section 2, we and our affiliates have the right to conduct any business activities, under any name, in any geographic area and at any location, regardless of the proximity to the Development Area or the economic effect on the Franchised Restaurants or activities under this Agreement.

**2.5** The restrictions contained in this Section 2 do not apply to Margaritas Restaurants in operation, under lease or construction or other commitment to open in the Development Area as of the Effective Date.

### **3 DEVELOPMENT SCHEDULE**

**3.1 Your Development Obligations.** During the Development Term, you must develop, open and continuously operate in the Development Area the number of Franchised Restaurants specified in the Development Schedule. For each Franchised Restaurant to be developed during the Development Term, you must obtain our written acceptance of the site by the applicable site acceptance date listed in the Development Schedule (“Site Acceptance Date”) and develop and open the Franchised Restaurant by the applicable opening date listed in the Development Schedule (“Opening Date”). Your strict compliance with the Development Schedule is essential to this Agreement. Any failure by you in fulfilling your obligations to obtain site acceptance for a Franchised Restaurant by the applicable Site Acceptance Date or develop and open a Franchised Restaurant by the applicable Opening Date will constitute a material, non-curable breach of this Agreement, which will permit us to terminate this Agreement immediately by giving you written notice of termination. **TIME IS OF THE ESSENCE.**

**3.2 Effect of Sale of Franchised Restaurant.** If, during the Development Term, you sell (and we consent to the sale of) a Franchised Restaurant developed pursuant to this Agreement and you are not in default of the Franchise Agreement for that Franchised Restaurant, we will continue to count that Margaritas Restaurant as a Franchised Restaurant under the Development Schedule, provided that the restaurant continues to be operated pursuant to a franchise agreement with us or our affiliates.

## **4 DEVELOPMENT FEE**

**4.1 Development Fee.** You must pay to us, at the time that this Agreement is executed, a development fee equal to \$10,000 for each Franchised Restaurant that you have agreed to develop in the Development Area during the Development Term (“Development Fee”). The total amount of the Development Fee paid by you is set forth in Exhibit A. You acknowledge and agree that the Development Fee is fully earned by us when paid, and it is not refundable, and, is not credited against any other fees to be paid to us.

**4.2 Initial Franchise Fee.** The initial franchise fee (“Initial Franchise Fee”) is \$40,000.

## **5 DEVELOPMENT PROCEDURES**

### **5.1 Your Responsibility.**

**5.1.1** You assume all cost, liability and expense for locating, obtaining and developing sites for Franchised Restaurants and constructing and equipping Franchised Restaurants at Authorized Sites as required by our standards. You may not make any binding commitments to purchase or lease a site until we have accepted the site in writing.

**5.1.2** We restrict, designate, and have the right to approve or control your electronic and social media activities, if any, including Internet. You are prohibited from producing and or posting any website, web pages, web videos or anything on the web for use with the Margaritas Restaurants, your development, or any Franchised Business unless specific written permission is given by us. You must adhere to our standards of professional content in all interactions with the public.

**5.1.3** Prior to the opening of your third franchised restaurant, you must establish a Certified Training Center that meets the guidelines set forth in our Manual.

### **5.2 Site Acceptance.**

We will provide you with our site selection guidelines. For each proposed site, before you commit to acquire a site, you must notify us of the proposed site and submit financial proformas, a description of the site and a site review report, including photographs, demographic information, psychographic information (including a profile of the people living and working in the area and their propensity to spend money on food and beverage), site characteristics (including access and egress points and the amount of road traffic), other restaurant options in the area, and any other information that we may require, including, but not limited to, a letter of intent or other evidence satisfactory to us, which confirms your favorable prospects for obtaining the site. If the site review report is acceptable, we reserve the right to conduct one on-site evaluation of the proposed site before deciding whether to give our consent. Within 60 days after receipt of these documents,

and any information which we may reasonably require, we will advise you in writing whether we consent to the site. If we and you cannot agree on a site, we will not issue a Franchise Agreement.

**5.2.1** For any Franchised Restaurant, if you request, or we require, a second or subsequent on-site evaluation, you must reimburse us for all travel costs, lodging, meals and wages of our representative who conducts the on-site evaluation.

**5.2.2** You acknowledge and agree that our acceptance of a site does not constitute a representation or warranty of any kind, express or implied, of the site's suitability for a Margaritas Restaurant or any other purpose. Our acceptance indicates only that we believe that the site meets our then-current site selection criteria. Applying criteria that have appeared effective with other sites might not accurately reflect the potential for all sites, and demographic and/or other factors included in or excluded from our criteria could change, altering the potential of a site. The uncertainty and instability of these criteria are beyond our control, and we are not responsible if a site we accept fails to meet your expectations. You acknowledge and agree that: **(a)** your submission of a proposed site for our acceptance is based on your own independent investigation of the site's suitability for a Franchised Restaurant; and **(b)** our site-selection assistance is primarily for our benefit to assure us that we will have at least a minimally acceptable site.

**5.3 Acquisition of Authorized Site.** Within 45 days after we accept a proposed site for a Franchised Restaurant, you must submit to us a copy of the proposed sublease, lease, or purchase contract for that site (collectively, "lease") for our acceptance. You must obtain our acceptance for each Authorized Site before signing a lease. You agree that any lease for an Authorized Site must, in form and substance, be satisfactory to us and contain provisions as required by us as we may set forth in writing or otherwise. You agree that any lease for an Authorized Site must **(a)** be for an aggregate term of (at least) 10 years in a combination of initial term and renewals; and **(b)** contain terms and conditions that are commercially reasonable in our sole opinion. We reserve the right to require that you and the landlord enter into an addendum to modify the terms of the lease to comply with the provisions required by us. The lease may not contain any covenants or other obligations that would prevent you from performing your obligations under the Franchise Agreement. Our acceptance of the lease does not constitute a warranty or representation of any kind, express or implied, as to its fairness or suitability or as to your ability to comply with its terms, and we do not assume any liability or responsibility to you or to any third parties due to such acceptance. You must deliver a copy to us of the fully signed lease within 5 days after its execution. You may not sign a Franchise Agreement for, or begin construction of a Franchised Restaurant at, an Authorized Site until you have delivered a copy of the fully signed lease to us.

**5.4 Execution of Franchise Agreements.** If we accept the site for a Franchised Restaurant, we will prepare and forward to you a Franchise Agreement for the Authorized Site. The form of Franchise Agreement for your first Franchised Restaurant will be the form included in the applicable Franchise Disclosure Document as of the date of this Agreement. The form of Franchise Agreement for the other Franchised Restaurants to be developed by you pursuant to this Agreement will be the then-current standard form in general use at the time of our notice to you. Within 10 days after you receive the Franchise Agreement and at the same time that you sign an approved lease for an Authorized Site, you must sign and return the Franchise Agreement to us which we will also sign. Among other things, the Franchise Agreement for each Franchised Restaurant as signed by you will govern the development, construction and

opening of the Franchised Restaurant. While developing the Franchised Restaurant, you must have in place the insurance required by the Franchise Agreement.

**5.5 Owners Orientation.** We will provide to you (and your Operating Principals) a 3 to 5 day Owners Orientation at our designated training facilities in New Hampshire, Massachusetts or Maine. We will not authorize the first Franchised Restaurant to open until you (and your Operating Principals) have attended and successfully completed the Owners Orientation. The Owners Orientation for you (and for your Operating Principal) must be completed 10 weeks prior to opening your first Franchised Restaurant. There is no training fee for the Owners Orientation, however, you must pay all salaries, benefits, travel, living and other expenses incurred by you and (and your Operating Principals) while attending the training.

## **6 YOUR ORGANIZATION**

### **6.1 Governing Documents.**

**6.1.1** If you are (or Transfer your interests in this Agreement to) a business entity, during the Development Term, your governing documents must provide that your activities are limited exclusively to the development of Margaritas Restaurants and other restaurants operated by you that are franchised by us or our affiliates and that no Transfer (as defined in Section 8) of an ownership interest may be made except in accordance with Section 8 of this Agreement. Any security or other ownership certificates that you issue must bear a conspicuous printed legend to that effect.

**6.1.2** You must furnish us with a list of holders of direct or indirect equity interests of 5% or more ("Owners") and their percentage interests, as well as copies of your governing documents (and any amendments thereto) and any other corporate documents, books or records that we may request. If any of your Owners is another business entity, you must also furnish us with a list of the Owners of that entity and their percentage interests. Your Owners and their respective equity interests as of the Effective Date are identified in Exhibit A.

**6.1.3** You must appoint a single representative from your Owners as your Operating Principal. The Operating Principal must be accepted by us and must devote full-time and best efforts to supervising the development and operation of the Franchised Restaurants. The Operating Principal as of the Effective Date is identified in Exhibit A. The Operating Principal must complete our initial training program and must have authority over all business decisions related to this Agreement and the authority to bind you in your dealings with us. You may not change the Operating Principal without our consent. If the Operating Principal no longer qualifies as such, you must designate another qualified person to act as the Operating Principal within 30 days after the date the prior Operating Principal ceases to be qualified.

**6.2 Acknowledgment by Owners.** Owners acknowledge that, by signing the Guaranty Agreement attached as Exhibit C, they are personally binding themselves to the performance of all the obligations, covenants, representations and agreements set forth in this Agreement. Owners acknowledge that, by signing the Owner's Acknowledgment attached as Exhibit B, they are binding themselves to the confidentiality and non-competition restrictions of this Agreement, including Section 10. With respect to Section 10.3, the time period will run

from the expiration, termination or Transfer of this Agreement or from the termination of the Owner's relationship with you, whichever occurs first. If we request, you must obtain from your officers, directors and those employees that we designate, and furnish to us, executed agreements with restrictions similar in substance to Section 10. The agreements must be in a form acceptable to us and specifically identify us as having the independent right to enforce them.

## **7 TRANSFERS BY US**

We have the unrestricted right to transfer or assign all or any part of our interest in this Agreement to any person or legal entity without your consent. You agree that we will have no liability after the effective date of transfer or assignment for the performance of, or any failure to perform, any obligations transferred. We also have the right to delegate to others the performance of any of our duties under this Agreement.

## **8 TRANSFERS BY YOU**

**8.1 Definition of Transfer.** For purposes of this Agreement, "Transfer" means any sale, assignment, transfer, conveyance, give away, pledge, mortgage or other encumbrance, either voluntarily or by operation of law (such as through divorce or bankruptcy proceedings) of any interest in you (if you are a business entity), this Agreement or any other assets pertaining to your operations under this Agreement.

**8.2 No Transfer Without Our Consent.** You acknowledge that this Agreement is personal to you and we have selected you as an area developer based on our reliance on your (or your Owners') character, skill, aptitude and business and financial capacity. Neither you nor any of your Owners may make any Transfer or permit any Transfer to occur without obtaining our prior written consent. The decision as to whether to consent to a Transfer will be made in the exercise of our business judgment, but our consent will not be unreasonably withheld. We have the right to communicate with and counsel you and the proposed transferee on any aspect of a proposed Transfer. You agree to provide any information and documentation relating to the proposed Transfer that we reasonably require. Unless otherwise agreed, we do not waive any claims against the transferring party if we consent to a Transfer.

**8.3 Transfer Generally.** Except as otherwise provided in this Section 8, if you propose to undertake a Transfer, the following conditions apply (unless waived by us);

**8.3.1** You must:

**(a)** Be in compliance with all obligations to us under this Agreement and any other agreement you have with us, our affiliates, any lenders that have provided financing pursuant to an arrangement with us and your major suppliers as of the date of the request for our consent to the Transfer.

**(b)** Pay to us a transfer fee equal to the greater of 20% of the amount of the Development Fees paid for Franchised Restaurants developed or to be developed under this Agreement or \$10,000.

**(c)** Make the Transfer only in conjunction with a simultaneous Transfer of the same interest with respect to all agreements with us in the Development Area.

(d) Advise us in writing of any proposed Transfer, submit (or cause the proposed transferee to submit) a franchise application for the proposed transferee, submit a copy of all contracts and all other agreements or proposals and submit all other information requested by us relating to the proposed Transfer.

**8.3.2** The proposed transferee (and if the proposed transferee is not a natural person, all persons that have any direct or indirect interest in the transferee as we may require) must demonstrate to our satisfaction extensive experience in high quality restaurant operations of a character and complexity similar to Margaritas Restaurants; must meet the managerial, operational, experience, quality, character and business standards for a developer promulgated by us from time to time; must possess a good character, business reputation and credit rating; must have an organization whose management culture is compatible with our management culture; and must have adequate financial resources and working capital to meet Developer's development obligations under this Agreement. If the proposed transferee is an existing Margaritas area developer, he must not be in default under his agreements with us and must have substantially complied with our operating standards.

**8.3.3** You and the proposed transferee must sign, at our option, an assignment agreement and any amendments to this Agreement that we require to reflect the Transfer or our then-current standard form of development agreement for a term ending on the expiration of the Development Term. You and the proposed transferee must also sign any other agreements that we require.

**8.3.4** You, your Owners and the transferee must execute a general release, in a form satisfactory to us, of all claims against us and our past, present and future affiliates, officers, directors, shareholders, members, agents and employees. You and your Owners will remain liable to us for all obligations arising before the effective date of the Transfer and, at our request, you and your Owners must sign a written guarantee pursuant to which you and your Owners will remain personally liable for all obligations to us incurred before the effective date of the Transfer and for a period of 2 years following the effective date of the Transfer.

**8.3.5** The price and other proposed terms of the Transfer must not, in our reasonable business judgment, have the effect of negatively impacting the prospects of completing the Development Schedule or the future viability of the transferred Franchised Restaurants.

**8.3.6** If the transferee is a business entity, those persons or entities with an ownership interest of 5% or more in the transferee must execute our then-current form of owner's acknowledgment.

**8.4 Transfer of Partial Ownership Interest.** If you propose to admit a new Owner who will have less than a 5% ownership interest, remove an existing Owner or change the distribution of ownership interests among the Owners shown on Exhibit A, you must give us advance notice and submit a copy of all proposed contracts and other information concerning the Transfer that we may request. You must also pay to us a transfer fee as provided in Section 8.3.1.(b). We may withhold our consent on any reasonable grounds or give our consent subject to reasonable conditions, including the conditions in Sections 6.1, 8.3.1(a), 8.3.4 and 8.3.6. Any new Owner must submit a personal application and execute our then-current form of owner's acknowledgment.

**8.5 Transfer for Convenience of Ownership.** If you are an individual or a partnership, we will consent to the Transfer of this Agreement to a business entity that is wholly owned by you that you form for the convenience of ownership, provided that: **(a)** the entity has and will have no business other than the development and operation of Margaritas Restaurants; **(b)** you comply with the requirements in Sections 6.1, 8.3.1(a), 8.3.3, 8.3.4 and 8.3.6; **(c)** the Owners hold equity interests in the new entity in the same proportion shown on Exhibit A; and **(d)** the top-level management of your organization does not change. You will not be required to pay a transfer fee for a Transfer under this Section 8.5.

**8.6 Transfer upon Death or Permanent Incapacity.** If the Transfer is a transfer of ownership interests in you following the death or permanent incapacity (as reasonably determined by us) of an Owner, that person's executor, administrator or personal representative must apply to us in writing within 3 months after the death or declaration of permanent incapacity for consent to Transfer the person's interest. The Transfer will be subject to the provisions of Sections 8.3 and 8.4, as applicable. In addition, if the deceased or incapacitated person is the Operating Principal (as defined in Section 6.1) or your general manager, we will have the right (but not the obligation) to take over the development of the Franchised Restaurants until the Transfer is completed and charge a reasonable management fee not to exceed 7% of weekly gross sales for our services in addition to reimbursement of our expenses. In the case of Transfer by bequest or by intestate succession, if the heirs or beneficiaries are unable to meet the conditions of Section 8.3 or 8.4, the executor may Transfer the decedent's interest to another successor that we have accepted, subject to all of the terms and conditions for Transfers contained in this Agreement. If an interest is not disposed of under this Section 8.6 within 6 months after the date of death or appointment of a personal representative, we may terminate this Agreement under Section 11.1.

**8.7 Securities Offerings.** Ownership interests in any Developer business entity may be sold, by private or public offering, only with our prior consent (whether or not our written consent is required under any other provision of this Section); however, our consent will not be unreasonably withheld. In addition to the applicable requirements of Section 8.3 or 8.4, prior to the time that any public offering or private placement of securities or partnership interests in you is made available to potential investors, you, at your expense, must deliver to us a copy of the offering documents. You, at your expense, also must deliver to us an opinion of your legal counsel (addressed to us and in a form acceptable to us) that the offering documents properly use the Proprietary Marks and accurately describe your relationship with us and/or our affiliates. The indemnification provisions of Section 13 must also include any losses or expenses incurred by us and/or our affiliates in connection with any statements made by or on behalf of you in any public offering or private placement of your securities.

**8.8 Non-Conforming Transfers.** Any purported Transfer that is not in compliance with this Section 8 is null and void and constitutes a material breach of this Agreement, for which we may terminate this Agreement without opportunity to cure. Our consent to a Transfer does not constitute a waiver of any claims that we have against the transferor, nor is it a waiver of our right to demand exact compliance with the terms of this Agreement.

**8.9 Right of First Refusal.** We have the right, exercisable within 30 days after receipt of the notice specified in Section 8.2, to send written notice to you that we intend to purchase the interest proposed to be transferred. We may assign our right of first refusal to someone else either before or after we exercise it. However, our right of first refusal will not apply with regard to Transfers under Section 8.5 or Transfers to your spouse, son or daughter (including Transfers to your spouse, son or daughter as a result of death or permanent

incapacity as described in Section 8.6), provided that the transferees meet all criteria required of new franchisees.

**8.9.1** If the Transfer is proposed to be made pursuant to a sale, we or our designee may purchase the interest proposed to be transferred on the same economic terms and conditions offered by the third-party. Closing on our purchase must occur within 60 days after the date of our notice to the seller electing to purchase the interest. If we cannot reasonably be expected to furnish the same consideration as the third-party, then we may substitute the reasonable equivalent in cash. If the parties cannot agree within 30 days on the reasonable equivalent in cash, we will designate an independent appraiser, and the appraiser's determination will be final. We and you will split the costs of the independent appraisal. Any material change in the terms of the offer from a third party after we have elected not to purchase the seller's interest will constitute a new offer subject to the same right of first refusal as the third party's initial offer.

**8.9.2** If a Transfer is proposed to be made by gift, we will designate one independent appraiser to determine the fair market value of the interest proposed to be transferred. We and you will split the costs of the independent appraisal. We may purchase the interest at the fair market value determined by the appraiser. Closing on the purchase will occur within 30 days after our notice to the transferor of the appraiser's determination of fair market value.

**8.9.3** If we elect not to exercise our rights under this Section, the transferor may not complete the Transfer until he has complied with this Section 8. Closing of the Transfer must occur within 60 days of our election (or such longer period as applicable law may require); otherwise, the third-party's offer will be treated as a new offer subject to our right of first refusal. The Transfer is conditional upon our determination that the Transfer was completed on terms substantially the same as those offered to us. You must provide to us copies of all fully-executed agreements and any other information we request relating to the Transfer.

**8.10 UNCOMPLETED TRANSFER. IF YOU PURSUE BUT DO NOT COMPLETE A TRANSFER WHICH HAS CAUSED US TO INCUR COSTS AND EXPENSE IN REVIEWING AND DOCUMENTING THE PROPOSED TRANSFER, YOU MUST REIMBURSE US FOR THESE COSTS AND EXPENSES.**

## **9 GENERAL RELEASE**

You (on behalf of yourself and your parent, subsidiaries and affiliates) and all Owners of your obligations under this Agreement (collectively, "Releasers") 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, members, agents and employees, in their corporate and individual capacities, 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 now owns or holds or may at any time have owned or held, including, without limitation, 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 Releaser and us or our parent, subsidiaries or affiliates, the sale of any franchise to any Releaser, the development and operation of the Franchised Restaurants and the development and operation of all other restaurants operated by any Releaser

that are franchised by us or our parent, subsidiaries or affiliates. This release does not include a release of claims arising from representations in the Franchise Disclosure Document provided to you.

## 10 COVENANTS

**10.1 Confidential Information.** During and after the Development Term, you may not communicate, divulge or use for any purpose other than the development and/or operation of the Franchised Restaurants, any confidential information, knowledge, trade secrets or know-how which may be communicated to you or which you may learn by virtue of this Agreement or the operation of the Franchised Restaurants. You may divulge confidential information only to your professional advisers, your employees who must have access to the information to develop or operate the Franchised Restaurants and your contractors and your landlords, provided that you obtain our prior consent. All information, knowledge and know-how relating to us, our business plans or the System are deemed confidential for purposes of this Agreement, except information that you can demonstrate came to your attention by lawful means prior to our disclosure, or that, at the time of our disclosure to you, had become a part of the public domain. You must require your employees and any other person or entity to whom you wish to disclose any confidential information to sign agreements providing that they will maintain the confidentiality of the disclosed information. The agreements must be in a form satisfactory to us and must identify us as a third-party beneficiary with the independent right to enforce the agreements.

**10.2 Restrictions During the Development Term.** You acknowledge and agree that: **(a)** pursuant to this Agreement, you will have access to valuable trade secrets, specialized training and confidential information from us and our affiliates regarding the development, operation, management, purchasing, sales and marketing methods and techniques of the System; **(b)** the System and the opportunities, associations and experience established by us and acquired by you under this Agreement are of substantial and material value; **(c)** in developing the System, we and our affiliates have made and continue to make substantial investments of time, technical and commercial research, and money; **(d)** we would be unable to adequately protect the System and its trade secrets and confidential information against unauthorized use or disclosure and would be unable to adequately encourage a free exchange of ideas and information among Margaritas Restaurants if franchisees were permitted to hold interests in competitive businesses; and **(e)** restrictions on your right to hold interests in, or perform services for, competitive businesses will not hinder your activities. Accordingly, you agree that, during the Development Term, you will not, without our prior written consent, either directly or indirectly through any other person or entity:

**10.2.1** Divert or attempt to divert any business or customer, or potential business or customer, to any Competitive Business (as defined in Section 10.2.3);

**10.2.2** Own, manage, engage in, advise, make loans to, be employed by, assist or have any interest in any restaurant business: **(a)** that sells Mexican cuisine; or **(b)** whose method of operation or trade dress is similar to that employed in the System ("Competitive Business"); or

**10.2.3** During the Development Term, there is no geographical limitation on these restrictions.

**10.3 Restrictions After Termination, Expiration or Transfer.** In light of your acknowledgments and agreements as set forth in Section 10.2, you agree as follows:

**10.3.1** For a period of 2 years following the expiration or termination of this Agreement or a Transfer to a new area developer to which we have consented, you covenant and agree that you will not own, manage, engage in, advise, make loans to, be employed by, assist or have any interest in (a) any business that owns or offers franchises or licenses in a Competitive Business or (b) any Competitive Business that is (or is intended to be) located at or within 10 miles of the border of the Development Area or within 10 miles of any other Margaritas Restaurant

**10.3.2** For a period of 2 years following the expiration, termination or Transfer of this Agreement or a Transfer to a new area developer to which we have consented, you further covenant and agree that you will 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 any Authorized Site to any person, firm, partnership, corporation, or other entity which you know, or have reason to know, intends to operate a Competitive Business at that Authorized Site. You, by the terms of any conveyance selling, assigning, leasing or transferring your interest in any Authorized Site, must include restrictive covenants as are necessary to ensure that a Competitive Business that would violate this Section is not operated at that Authorized Site for this 2-year period, and you must take all steps necessary to ensure that these restrictive covenants become a matter of public record.

**10.3.3** If any part of these restrictions is found to be unreasonable in time or distance, each month of time or mile of distance may be deemed a separate unit so that the time or distance may be reduced by appropriate order of the court to that deemed reasonable. If, at any time during the 2-year period following expiration or termination of this Agreement or a Transfer to a new area developer to which we have consented, you fail to comply with your obligations under this Section, that period of noncompliance will not be credited toward your satisfaction of the 2-year obligation. Following the resolution of any dispute regarding the enforceability of this Section is resolved in our favor, the 2-year period (or such other period as may be deemed reasonable by the court) will run from the date of the resolution.

**10.4 Modification.** We will have the right, in our sole discretion, to reduce the scope of any covenant in this Section 10 effective immediately upon your receipt of written notice, and you agree that you will comply forthwith with any covenant as so modified, which will be fully enforceable notwithstanding the provisions of Section 16.

**10.5 Applicability.** This Section 10 does not prohibit you from having: **(a)** interests in any Margaritas Franchise Agreement that remains in effect; or **(b)** ownership of less than 5% of the outstanding equity securities of any publicly-held corporation, as defined in the Securities and Exchange Act of 1934.

**10.6 Enforcement.** You agree that the existence of any claim you may have against us, whether or not arising from this Agreement, will not constitute a defense to our enforcement of this Section 10. You agree to pay all costs and expenses that we reasonably incur in enforcing this Section 10, including reasonable attorneys' fees. You acknowledge that a violation of the terms of this Section 10 would result in irreparable injury to us for which no adequate remedy at law may be available. Accordingly, you consent to the issuance of an

injunction prohibiting any conduct in violation of the terms of this Section 10. Such injunctive relief will be in addition to any other remedies that we may have.

**10.7 Survival.** The terms of this Section 10 will survive the termination, expiration, or any Transfer of this Agreement. The parties agree this Section 10 will be construed as independent of any other provision of this Agreement.

## **11 DEFAULT AND TERMINATION**

**11.1 Grounds for Termination.** In addition to the grounds for termination stated elsewhere in this Agreement, we may terminate this Agreement, and the rights granted by this Agreement, upon written notice to you without an opportunity to cure upon the occurrence of any of the following events:

**11.1.1** You fail to obtain our written acceptance of a site by the applicable Site Acceptance Date or fail to develop and open a Franchised Restaurant by the applicable Opening Date.

**11.1.2** At any time during the Development Term, you fail to have open and operating the number of Franchised Restaurants required by the Development Schedule.

**11.1.3** You begin construction of a Franchised Restaurant before you execute the Franchise Agreement for that location.

**11.1.4** You are insolvent or unable to pay your creditors (including us); file a petition in bankruptcy, an arrangement for the benefit of creditors or a petition for reorganization; there is filed against you a petition in bankruptcy, an arrangement for the benefit of creditors or petition for reorganization that is not dismissed within 60 days of the filing; you make an assignment for the benefit of creditors; or a receiver or trustee is appointed for you and not dismissed within 60 days of the appointment.

**11.1.5** Execution is levied against your business or property; suit to foreclose any lien or mortgage against the premises or equipment of any Franchised Restaurant developed hereunder is instituted against you and is not dismissed within 60 days; or the real or personal property of any Franchised Restaurant developed hereunder must be sold after levy thereupon by any sheriff, marshal or constable.

**11.1.6** There is a material breach of any obligation under Section 10.

**11.1.7** Any Transfer that requires our prior written consent occurs without your having obtained that prior written consent.

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

**11.1.9** 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.

**11.1.10** You or any Owner, officer or director is convicted of, or pleads no contest to, a crime that we reasonably believe is likely to harm the System or our goodwill.

**11.1.11** You remain in default beyond the applicable cure period under: **(a)** any agreement with us or our affiliates; **(b)** any real estate lease, equipment lease or financing instrument relating to a Franchised Restaurant; or **(c)** any agreement with any vendor or supplier to a Franchised Restaurant.

**11.1.12** You received 2 or more notices of default within any 12 month period, whether or not the defaults are similar and whether or not they are cured.

**11.1.13** You fail or refuse to comply with any other provision of this Agreement or any requirement of the System and do not correct the failure or refusal within 15 days after receiving written notice of default (or such longer period as applicable law may require).

**11.1.14** You have voluntarily terminated any Franchise Agreement with us as defined in the Franchise Agreement.

**11.2 Our Rights Upon Your Default.** Upon a default of this Agreement which would allow us to terminate this Agreement, we will have the right, in our discretion, instead of termination to:

**11.2.1** terminate the territorial protection granted under Section 1, and we will have the right to establish and operate, and license others to establish and operate, Franchised Restaurants within the Development Area;

**11.2.2** reduce the number of Franchised Restaurants which you have the right to develop pursuant to the Development Schedule;

**11.2.3** reduce the size of the Development Area;

**11.2.4** withhold evaluation or approval of site proposal packages and refuse to approve the opening of any Franchised Restaurants to be developed hereunder; and/or

**11.2.5** accelerate the Development Schedule.

**11.3 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 Agreement, this Agreement will be deemed amended to conform to the minimum notice or cure period required by the applicable law or regulation.

## **11.4 Obligations on Termination or Expiration.**

**11.4.1** You will have no further right to develop or open Franchised Restaurants in the Development Area, except that you will be entitled to complete and open a Franchised Restaurant for which a Franchise Agreement has been executed by you. Notwithstanding anything to the contrary in any franchise agreement between you and us, termination or expiration of this Agreement will not affect your right to continue to operate Franchised Restaurants that were open and operating as of the date this Agreement terminated or expired.

**11.4.2** The limited exclusive rights granted to you in the Development Area will terminate, and we will have the right to operate, and license others to operate, Margaritas Restaurants anywhere in the Development Area.

**11.4.3** You must promptly return to us all materials and information furnished by us or our affiliates, except materials and information furnished with respect to a Franchised Restaurant which is open and operating pursuant to an effective franchise agreement.

**11.4.4** You and all persons and entities subject to the covenants contained in Section 10 will continue to abide by those covenants and must not, directly or indirectly, take any action that violates those covenants.

**11.4.5** You must immediately pay to us and our affiliates all sums due and owing us or our affiliates pursuant to this Agreement.

**11.4.6** We will retain the Development Fee.

**11.5 Cross Default.** Any default by you of any other agreement between us and you shall be deemed a default under this Agreement, and any default by you under this Agreement shall be deemed a default under any and all other agreements between us and you. If the nature of such default under any other agreement would have permitted us to terminate this Agreement had said default occurred hereunder, we shall have the right to terminate all of the other agreements between us and you in the same manner as provided herein for termination of this agreement.

## **12 RELATIONSHIP OF THE PARTIES**

We and you agree and acknowledge that each of us is an independent business entity or person; that our only relationship is as franchisor and franchisee as specified in this Agreement; that this Agreement does not create a fiduciary or other special relationship or make you or us an agent, legal representative, joint venturer, joint employer, partner, employee or servant of each other for any purpose. Neither party is liable or responsible for the other's debts or obligations and neither party shall be obligated for any damages to any person or property directly or indirectly arising out of the operation of the other party's business. We and you agree that neither of us will hold ourselves out to be the agent, employer, partner or co-venturer of the other, and that neither of us has the authority to create or assume in the other's name or on their behalf, any obligation, express or implied, or to act or purport to act as agent or representative for any purpose whatsoever and cannot bind or incur liability on behalf of the other. You are not authorized to make any contract, agreement, warranty or representation on our behalf, or to create any

obligation, express or implied, on our behalf. During the Term, you shall hold yourself out to the public to be an independent contractor operating pursuant to this Agreement.

### 13 INDEMNIFICATION

You agree to defend, indemnify, and hold harmless us and our past, present and future affiliates, officers, directors, shareholders, members, agents, attorneys, consultants, and employees against any claims, losses, costs, expenses, liabilities and damages (collectively, "Claims") arising directly or indirectly from, as a result of, or in connection with your activities under this Agreement or any training we provide or any dispute between or among you and/or any of your partners, shareholders, or members in which we are named, as well as the costs of defending against such Claims (including, but not limited to, reasonable attorneys' fees, costs of investigation, settlement costs and interest). If we are deemed a joint employer for any of your employees or contractors and incur any liability as a joint employer, you must indemnify us and make us whole. With respect to any threatened or actual litigation, proceeding, or dispute that could directly or indirectly affect us or any of the other indemnitees under this Section 13, if you do not assume the active defense of the matter within a reasonable time, we will have the right, but not the obligation, to: **(a)** choose counsel; **(b)** direct and control the handling of the matter; and **(c)** settle any claim against the indemnitees. This Section 13 will survive the expiration or termination of this Agreement, and applies to Claims even if they exceed the limits of your insurance coverage.

### 14 CONSENTS AND WAIVERS

**14.1 Consent.** Whenever our prior written approval, acceptance or consent is required under this Agreement, you agree to make a timely written request to us for such consent. Our approval, acceptance or consent must be in writing and signed by an authorized officer to be effective.

**14.2 No Warranties.** We make no warranties or guarantees upon which you may rely by providing any waiver, approval, consent or suggestion to you in connection with this Agreement and assume no liability or obligation to you therefore, or by reason of any neglect, delay, or denial of any request therefore. We will not, by virtue of any waivers, approvals, consents, advice or services provided to you, assume responsibility or liability to you or to any third parties to which we would not otherwise be subject.

**14.3 Waivers.** No delay or failure to exercise any right under this Agreement or to insist upon your strict compliance with any obligation or condition, and no custom or practice that differs from the terms of this Agreement, will constitute a waiver of our right to exercise the contractual right or demand your strict compliance with the terms of this Agreement. Our waiver of any particular default does not affect or impair our rights with respect to any subsequent default you may commit. Our waiver of a default by another franchisee does not affect or impair our right to demand your strict compliance with the terms of this Agreement. Our acceptance of any payments due from you does not waive any prior defaults.

### 15 NOTICES

Notices related to this Agreement will be deemed provided upon receipt (or first rejection) and may be given by any of the following delivery methods: **(a)** certified or registered mail; **(b)** U.S. Priority Mail or national commercial delivery service (e.g., UPS, Federal Express); or **(c)** ~~facsimile (if the sender receives machine confirmation of successful transmission); or~~

(d) electronic mail. Notices to you and us must be sent to the addresses on the first page of this Agreement. Either party can change its notice address by informing the other party in writing.

## 16 ENTIRE AGREEMENT

Each element of this Agreement is essential and material. This Agreement, the Manual, the attachments to this Agreement and the documents referred to in this Agreement constitute the entire agreement between you and us with respect to your development rights in the Development Area and supersede all prior negotiations, representations, correspondence and agreements concerning the same subject matter. Except for the Franchise Disclosure Document and any Franchise Agreement executed pursuant to this Agreement, 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. Except 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 the Margaritas Franchise Disclosure Document.

## 17 SEVERABILITY AND CONSTRUCTION

**17.1 Severability.** Each provision of this Agreement is severable from the others. If, for any reason, any provision is determined by a court to be invalid, the invalidity will not impair the operation of the remaining provisions of this Agreement. The latter will continue to be given full force and effect and bind us and you; the invalid provision(s) will be deemed not to be a part of this Agreement.

**17.2 Survival.** Each provision of this Agreement that, expressly, or by reasonable implication, is to be performed, in whole or in part, after the expiration, termination or Transfer of this Agreement will survive expiration, termination or Transfer.

**17.3 Interpretation.** Except as otherwise expressly provided, nothing in this Agreement is intended, or will be deemed, to confer any rights or remedies upon any person or legal entity other than you and us.

**17.4 Our Discretion.** Whenever we have a right and/or the 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 and specifically provided in this Agreement, we may make such decision or exercise our right and/or discretion on the basis of our judgment of what is in our best interests. Our judgment of what is in the best interests of the System, at the time our decision is made or our right or discretion is exercised, can be made without regard to whether: **(a)** other reasonable alternative decisions or actions, or even arguably preferable alternative decisions or actions, could have been made by us; **(b)** our decision or the action taken promotes our financial or other individual interest; **(c)** our decision or the action taken applies differently to you and one or more other franchisees or our company-owned or affiliate-owned operations; or **(d)** our decision or the action taken is adverse to your interests. We will have no liability to you for any such decision or action. We and you intend that the exercise of our right or discretion will not be subject to limitation or review. If applicable law implies a covenant of good faith and fair dealing in this Agreement, we and you agree that such covenant will not imply any rights or obligations that are inconsistent with a fair construction of the terms of this

Agreement and that this Agreement grants us the right to make decisions, take actions and/or refrain from taking actions not inconsistent with your rights and obligations under this Agreement.

## **18 DISPUTE RESOLUTION**

**18.1 Choice of Law.** This Agreement and the relationship between the parties is governed by and will be construed in accordance with the laws of the State of New Hampshire, except that Section 10 will be governed by the laws of the state in which the Development Area is located. If the Development Area is located in more than one state, Section 10 will be governed by the laws of the applicable state that would uphold those provisions of the Agreement. The parties agree, however, if the Development Area or any Franchised Restaurant is not located in New Hampshire and the Developer is not a resident of, or domiciled in, New Hampshire, the provisions of any New Hampshire law regulating the offer or sale of franchises or the franchise relationship applicable to this Agreement and the regulations promulgated thereunder shall not apply to this Agreement or the franchise relationship created hereby.

**18.2 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 having jurisdiction where our principal offices are located at the time suit is filed. We may file suit in the federal or state court located in the jurisdiction where our principal offices are located at the time suit is filed or in the jurisdiction where you reside or do business or where the Development Area or any Franchised Restaurant is or was located or where the claim arose. You consent to the personal jurisdiction of those courts over you and to venue in those courts.

**18.3 Limitation of Actions.** Except for payments owed by one party to the other, and unless prohibited by applicable law, any legal action or proceeding (including the offer and sale of a franchise to Area Developer) 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 must be brought or instituted within a period of 2 years after the initial occurrence of any act or omission that is the basis of the legal action or proceeding, whenever discovered. The parties agree that any proceeding will be conducted on an individual, not a class-wide, basis and that a proceeding between you and us may not be consolidated with another proceeding between us and any other person or entity. No previous course of dealing shall be admissible to explain, modify, or contradict the Terms of this Agreement. No implied covenant of good faith and fair dealing shall be used to alter the express Terms of this Agreement.

**18.4 MUTUAL WAIVER OF JURY TRIAL.** Each of us irrevocably waives trial by jury in any litigation.

**18.5 Mutual Waiver of Punitive Damages.** Each of us waives any right to or claim of punitive, exemplary, multiple or consequential damages against the other in litigation and agrees to be limited to the recovery of actual damages sustained.

**18.6 Remedies Not Exclusive.** Except as provided in Sections 18.1 through 18.5, no right or remedy that the parties have under this Agreement is exclusive of any other right or remedy under this Agreement or under applicable law.

**18.7 Reimbursement of Costs and Expenses.** If either party brings an action to enforce this Agreement in a judicial proceeding, the party prevailing in that proceeding will be entitled to reimbursement of costs and expenses, including, but not limited to, 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, 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 must 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.

**18.8 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.

## **19 MISCELLANEOUS**

**19.1 Gender and Number.** All references to gender and number will be construed to include such other gender and number as the context may require.

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

**19.3 Counterparts.** This Agreement may be executed in counterparts, and each copy so executed and delivered will be deemed an original.

**19.4 Time.** Time is of the essence of this Agreement for each provision in which time is a factor.

**19.5 Injunctive Relief.** You recognize that your failure to comply with the terms of this Agreement, including, but not limited to, the failure to fully comply 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 will be entitled to declaratory and injunctive relief (both preliminary and permanent) restraining that breach and/or to specific performance without showing or proving actual damages and without posting any bond or security.

**19.6 Terrorist Acts.** You acknowledge that under applicable U.S. law, including, without limitation, Executive Order 13224, signed on September 23, 2001 ("Order"), we are prohibited from engaging in any transaction with any person engaged in, or with a person aiding any person engaged in, acts of terrorism, as defined in the Order. Accordingly, you represent and warrant to us that, as of the date of this Agreement, neither you nor any person holding any ownership interest in you, controlled by you, or under common control with you is designated under the Order as a person with whom business may not be transacted by us, and that you: **(a)** do not, and hereafter will not, engage in any terrorist activity; **(b)** are not affiliated with and do not support any individual or entity engaged in, contemplating, or supporting terrorist activity; and **(c)** are not acquiring the rights granted under this Agreement with the intent to generate funds to channel to any individual or entity engaged in, contemplating, or supporting terrorist activity, or to otherwise support or further any terrorist activity.

**19.7** This Agreement has been negotiated in the English language and the rules of construction and definitions of the English language will be applied in interpreting this Agreement. You represent that you and your Operating Principal are fluent in English and have consulted with legal counsel to the extent necessary to understand the provisions of this Agreement. The English language version of this Agreement will be the official and binding Agreement between the Parties. All notices and communications required or permitted under this Agreement, including without limitation all meetings, mediations, arbitration and litigation, will be conducted and written in the English language. In addition, we will provide all services and materials under this Agreement, including without limitations the Manuals and all training programs, seminars, conventions, programs and meetings, in the English language and will not have a duty to provide any translation or interpreter services for any of your personnel. You will be solely responsible for the cost of any related translation or interpreter services.

**19.8** Whenever we reserve or are deemed to have reserved discretion in a particular area or where we agree or are deemed to be required to exercise our rights reasonably or in good faith, we will satisfy our obligations whenever we exercise Reasonable Business Judgment in making our decision or exercising our rights. Our decisions or actions will be deemed to be the result of Reasonable Business Judgment, even if other reasonable or even arguably preferable alternatives are available, if our decision or action is intended, in whole or significant part, to promote or benefit the System generally even if the decision or action also promotes our financial or other individual interest. Examples of items that will promote or benefit the System include without limitation enhancing the value of the Marks, improving customer service and satisfaction, improving service or product quality, improving uniformity, enhancing or encouraging modernization and improving the competitive position of the System. We are not required to consider any of your or any other franchisee's particular economic or other circumstances when exercising our Reasonable Business Judgment. Decisions we make using our Reasonable Business Judgment will not affect all franchisees equally, and some may be benefited while others are not. Neither you nor any third party (including without limitation an arbitrator or a court of competent jurisdiction), shall substitute its judgment for our Reasonable Business Judgment.

## **20 ACKNOWLEDGMENTS**

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**[SIGNATURES ARE ON THE FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the parties have executed this Agreement by their duly authorized representatives.

**ATTEST:**

**MARGARITAS FRANCHISING CORP.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST/WITNESS:**

**AREA DEVELOPER**

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**DEVELOPMENT INFORMATION**

1. **Development Area.** The Development Area will be \_\_\_\_\_

Developer's rights in the Development Area shall be subject to the limitations described in Section 2. Any political boundaries contained in the description of the Development Area shall be considered fixed as of the Effective Date and shall not change notwithstanding a political reorganization or a change in those boundaries. Unless otherwise specified, all street boundaries shall be deemed to include both sides of the street.

2. **Development Fee.** The Development Fee that you paid is \$\_\_\_\_\_.

3. **Development Schedule.** You must develop and continue to operate a minimum of \_\_\_\_\_ Franchised Restaurants in the Development Area in accordance with the following schedule:

Site Acceptance Date	Opening Date	Cumulative Number of Franchised Restaurants To Be Open and Operating On the Opening Date

4. **Ownership:** If you are a business entity, the following persons constitute all of the owners of a legal and/or beneficial interest in you of more than 5%:

Name	Address	Ownership Interest	Office Held/Position

4.1 **Ownership:** If any Owner named above is a business entity, the following persons constitute all of the owners of a legal and/or beneficial interest in that entity of more than 5%:

Name	Address	Ownership Interest	Office Held/Position

**5. Management:**

The following persons constitute all of your officers, directors or other management personnel:

<b>Name</b>	<b>Position</b>

**6. Operating Principal:**

The following person is designated as your Operating Principal:

## EXHIBIT B

### OWNER'S ACKNOWLEDGMENT

In consideration of, and as an inducement to, the execution of the Margaritas Area Development Agreement dated as of \_\_\_\_\_ ("Agreement") by Margaritas Franchising Corp. ("MFC"), entered into with \_\_\_\_\_ ("Area Developer"), the undersigned, each of whom is an officer, director, or a direct or indirect holder of a legal or beneficial interest in Area Developer of 5% or more ("5% Owner"), hereby personally and unconditionally: **(1)** agree personally to be bound by the confidentiality and non-competition provisions in the Agreement, including, without limitation, the provisions of Section 10; and **(2)** agree personally to be liable for the breach of the confidentiality and non-competition provisions in the Agreement, including, without limitation, Section 10.

If any of the undersigned cease to be a 5% Owner, an officer or director of Area Developer, or to own any interest in Area Developer prior to termination or expiration of the Agreement, that person agrees that his obligations under this Acknowledgment shall continue to remain in force and effect unless MFC in its sole discretion, in writing, releases that person from this Acknowledgment. Notwithstanding the provisions of the previous sentence, unless prohibited by applicable law, the obligations contained in Section 10.2 shall remain in force and effect for a period of 2 years after any such release by MFC. A release by MFC of any of the undersigned shall not affect the obligations of any other Owner.

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

Sections 18.1 through 18.5 of the Agreement are incorporated by reference into this Acknowledgment and all capitalized terms that are not defined in this Acknowledgment shall have the meaning given them in the Agreement.

**[SIGNATURES ARE ON THE FOLLOWING PAGE]**

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

Date: \_\_\_\_\_

Print name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**EXHIBIT C**  
**GUARANTY AGREEMENT**

This guaranty agreement is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ of \_\_\_\_\_ (“Guarantor”) and Margaritas Franchising Corp. 273 Locust Street, Suite 200, Dover, New Hampshire 03820 (“Franchisor”)

WHEREAS:

- A. Franchisor and \_\_\_\_\_ (“Area Developer”) have entered into an Area Development Agreement dated \_\_\_\_\_.
- B. Guarantor is a shareholder, director, officer, member, trustee, and/or partner of Area Developer.
- C. In consideration of and as an inducement to Franchisor to enter into the Area Development Agreement with Area Developer, Guarantor hereby covenants and agrees as follows:
1. Guarantor warrants that the facts contained in Recital A and B are correct;
  2. Guarantor has read the terms and conditions of the Area Development Agreement;
  3. Guarantor personally and unconditionally makes all the covenants, representations and agreements of Area Developer set forth in the Area Development Agreement and that Area Developer is obligated to perform thereunder;
  4. Guarantor personally, unconditionally and irrevocably guarantees to Franchisor and its successors and assigns that all of Area Developer's obligations, undertakings, agreements and covenants set forth in the Area Development Agreement will be punctually paid and performed during the term of the Area Development Agreement and thereafter, as applicable;
  5. Guarantor unconditionally and irrevocably agrees to be personally bound by, and personally liable for the breach of, each and every provision of the Area Development Agreement by Area Developer;
  6. Upon default by Area Developer or notice from Franchisor, Guarantor will immediately make each payment and perform each obligation required of Area Developer under the Area Development Agreement;
  7. Without affecting the obligations of any guarantor under this Guaranty Agreement, Franchisor may, without notice to Guarantor, waive, renew, extend, modify, amend or release any indebtedness or obligation of Area Developer or any guarantor, or settle, adjust or compromise any claims against Area Developer or any guarantor;
  8. Guarantor waives all demands and notices of every kind with respect to enforcement of this Guaranty Agreement, including, without limitation, notice of presentment, demand for payment or performance by Area Developer, any default by Area Developer or any guarantor, and any release of any guarantor or other security for the Area Development Agreement or the obligations of Area Developer;
  9. Franchisor may pursue its rights against any guarantor without first exhausting its remedies against Area Developer and without joining any other guarantor hereto and no

delay on the part of Franchisor in the exercise of any right or remedy shall operate as a waiver of such right or remedy, and no single or partial exercise of such right or remedy shall preclude the further exercise of such right or remedy;

10. Upon receipt by Franchisor of notice of the death of Guarantor, the estate of deceased Guarantor shall be bound by the foregoing Guaranty Agreement, but only for defaults and obligations under the Area Development Agreement existing at the time of death; the obligations of all other guarantors shall continue in full force and effect;
11. This Guaranty Agreement will continue and is irrevocable during the term of the Area Development Agreement and, if required by the Area Development Agreement, after its termination or expiration;
12. Guarantor's obligations under this Guaranty Agreement are effective on the Effective Date of the Area Development Agreement, regardless of the actual date of signature;
13. This Guaranty Agreement is governed by New Hampshire law and Guarantor irrevocably submits to the jurisdiction and venue of the courts of New Hampshire;
14. If Franchisor is required to enforce this Guaranty Agreement in any judicial or arbitration proceeding or on any appeals, Guarantor must reimburse Franchisor for its enforcement costs. Enforcement costs include reasonable accountants', attorneys', attorney's assistants', arbitrators', and expert witness fees, costs of investigation and proof of facts, court costs, filing fees, other litigation expenses and travel and living expenses, whether incurred prior to, in preparation for, or in contemplation of the filing of any written demand, claim, action, hearing or proceeding to enforce this Guaranty Agreement;
15. Guarantor acknowledges that he or she has obtained independent legal advice before signing this Guaranty Agreement.

IN WITNESS WHEREOF Guarantor has signed this Guaranty Agreement under seal.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address  
\_\_\_\_\_

Signed, sealed and delivered by the above-named Guarantor in the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address  
\_\_\_\_\_

## EXHIBIT D

### RELEASE OF CLAIMS THIS IS A CURRENT FORM THAT IS SUBJECT TO CHANGE OVER TIME.

**THIS RELEASE OF CLAIMS** is made and entered into on \_\_\_\_\_20\_\_\_\_ ("the Effective Date") by and between Margaritas Franchising Corp., a Delaware corporation with its principal place of business at 273 Locust Street, Suite 200, Dover, New Hampshire 03820 (hereinafter referred to as "Franchisor") and [ \_\_\_\_\_ ], a/an [ \_\_\_\_\_ ] with its principal place of business at [ \_\_\_\_\_ ](hereinafter referred to as "Area Developer") collectively "the Parties".

### RECITALS

**WHEREAS**, Franchisor and Area Developer entered into a Margaritas Franchising Corp. [Area Developer Agreement dated \_\_\_\_\_].

[NOTE: Describe the circumstances relating to the release.].

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

1. **Recitals.** The Recitals above are incorporated herein by reference.

2. **Release of Claims by Franchisor.** In consideration of, and only upon full payment of \$\_\_\_\_\_ to Franchisor, and the other terms and conditions of this Release of Claims, the receipt and sufficiency of which is hereby acknowledged, Franchisor, for itself and for each of its affiliated corporations, limited liability companies, subsidiaries, divisions, insurers, indemnitors, attorneys, successors, and assigns, together with all of its past and present members, directors, officers, employees, attorneys, agents, assigns and representatives does hereby release and forever discharge Area Developer and each of its affiliated corporations, limited liability companies, subsidiaries, divisions, insurers, indemnitors, attorneys, successors, and assigns, together with all of its past and present members, directors, officers, employees, attorneys, agents, assigns and representatives of and from any and all actions, suits, proceedings, claims (including, but not limited to, claims for attorneys' fees), complaints, judgments, executions, whether liquidated or unliquidated, known or unknown, asserted or unasserted, absolute or contingent, accrued or not accrued, disclosed or undisclosed, related solely to monies owed to Franchisor by Area Developer under the [\_\_\_\_\_].

3. **Release of Claims by Area Developer.** In consideration of the other terms and conditions of this Release of Claims, the receipt and sufficiency of which is hereby acknowledged, Area Developer, for itself and for each of its affiliated corporations, limited liability companies, subsidiaries, divisions, insurers, indemnitors, attorneys, successors, and assigns, together with all of its past and present members, directors, officers, employees, attorneys, agents, assigns and representatives, does hereby release and forever discharge Franchisor and each of its respective affiliated corporations, limited liability companies, subsidiaries, divisions, insurers, indemnitors, attorneys, successors, and assigns, together with all of their past and present directors, officers, members, employees, attorneys, agents, assigns and representatives in their capacities as such, of and from any and all actions, suits, proceedings, claims (including, but not limited to, claims for attorneys' fees), complaints, charges, judgments, executions, whether liquidated or unliquidated, known or unknown, asserted or unasserted, absolute or contingent, accrued or not accrued, related to the Franchise Agreement.

4. **Entire Agreement.** This Release of Claims constitutes the entire agreement between the Parties relative to the subject matter contained herein, and all prior understandings, representations and

Margaritas

agreements made by and between the Parties relative to the contents contained in this Release of Claims are merged into this Release of Claims.

**5. Voluntary Nature of Agreement.** The Parties acknowledge and agree that they have entered into this Release of Claims voluntarily and without any coercion. The Parties further represent that they have had the opportunity to consult with an attorney of their own choice, that they have read the terms of this Release of Claims, and that they fully understand and voluntarily accept the terms.

**6. Governing Law and Jurisdiction.** This Release of Claims will be construed and enforced in accordance with the law of the State of New Hampshire without regard to its choice of law rules.

**7. Attorneys' Fees.** All rights and remedies under this Release of Claims shall be cumulative and none shall exclude any other right or remedy allowed by law. In the event of a breach of this Release of Claims that requires one of the parties to enforce the terms and conditions of this Release of Claims, the non-prevailing party shall pay the prevailing party's attorneys' fees and costs incurred by reason of the breach.

**8. Counterparts.** This Release of Claims may be executed in any number of counterparts each of which, when executed and delivered, shall be deemed an original, but all of which shall together constitute on and the same instrument.

This Release shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

This General Release shall not apply to claims arising under the Washington Franchise Investment Protection Act, RCW 19.100, and the rules adopted thereunder.

Dated: \_\_\_\_\_, 20\_\_

MARGARITAS FRANCHISING CORP.

By \_\_\_\_\_  
Its \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

AREA DEVELOPER: \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

***EXHIBIT C***  
***FRANCHISE AGREEMENT***

**TIO JUAN'S MARGARITAS MEXICAN RESTAURANT  
FRANCHISE AGREEMENT**

\_\_\_\_\_  
Franchisee

\_\_\_\_\_  
Effective Date

\_\_\_\_\_  
Franchised Location

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- Exhibit A – Franchise Information
- Exhibit B – Pre-Authorized Bank Transfer
- Exhibit C – Owner’s Acknowledgment
- Exhibit D – Guaranty Agreement
- Exhibit E – Notice of Key Employee
- Exhibit F – Weekly Advertising Obligation
- Exhibit G – Form of Release of Claims

## **TIO JUAN'S MARGARITAS MEXICAN RESTAURANT FRANCHISE AGREEMENT**

This Franchise Agreement ("Agreement") is made as of this \_\_\_\_\_ day of \_\_\_\_\_ ("Effective Date") by and between Margaritas Franchising Corp. ("Margaritas", "we" or "us"), a Delaware Corporation with a principal business address at 273 Locust Street, Suite 200, Dover, New Hampshire 03820, and \_\_\_\_\_ ("Franchisee", "you" or "your"), a(n) \_\_\_\_\_ with a principal business address at \_\_\_\_\_, and if the Franchisee is a partnership, corporation, trust, or limited liability company, also with each of its partners, shareholders, trustees, or members.

### **RECITALS**

We and our affiliates have developed a distinctive format, appearance and set of specifications and operating procedures (collectively, "System") relating to the development, establishment and operation of restaurants that feature Mexican cuisine with authentic Mexican influences served in a casual, festive atmosphere ("Margaritas Restaurants").

The distinguishing characteristics of the System include, but are not limited to, our menu items, recipes and food preparation, and service techniques; our authentic Mexican décor, layout, hand-crafted furnishings, color schemes and designs (collectively, "Trade Dress"); our standards and specifications for equipment, equipment layouts and interior and exterior accessories; and the accumulated experience reflected in our training program, operating procedures and standards and specifications. We may periodically change, improve, add to and further develop the elements of the System.

The System is identified by means of the "Tio Juan's Margaritas Mexican Restaurant" name and mark and certain other names, marks, logos, insignias, slogans, emblems, symbols and designs (collectively, "Proprietary Marks") that have been designated, or may in the future be designated, for use with the System. We have the exclusive right to use, and permit our franchisees to use, the Proprietary Marks. We may modify the Proprietary Marks used to identify the System, including the principal Proprietary Marks.

You wish to be granted the opportunity to develop and operate a franchised Margaritas Restaurant ("Franchised Restaurant") at the location identified on Exhibit A ("Franchised Location").

You understand and acknowledge the importance of our high and uniform standards of quality, operations and service and the necessity of developing and operating the Franchised Restaurant in strict conformity with this Agreement and our confidential operating manuals ("Manual").

You acknowledge and agree that, in the administration of this Agreement and in taking actions with respect to our relationship with you, we must take into account the needs of the System, and the effect upon the System as a whole, and the need to protect the Marks for the benefit of the System.

We are willing to grant you the opportunity to develop and operate the Franchised Restaurant at the Franchised Location, subject to the terms and conditions of this Agreement.

**NOW THEREFORE**, in consideration of our grant to you of the right to develop and operate the Franchised Restaurant at the Franchised Location during the term of this Agreement, as well as the mutual covenants, agreements and obligations set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

The Recitals are incorporated herein by reference.

## **1 GRANT OF FRANCHISE**

### **1.1 Grant.**

**1.1.1** Subject to the terms and conditions of this Agreement, we hereby grant to you the right, and you undertake the obligation, to use the Proprietary Marks and the System to operate the Franchised Restaurant at the Franchised Location.

**1.1.2** You may not use the Proprietary Marks or the System at any location other than the Franchised Location. You may not relocate the Franchised Restaurant without our prior written consent, which we may withhold in our sole discretion. If we consent to a relocation of the Franchised Restaurant, we will have the right to charge you a reasonable fee, plus our reasonable expenses incurred in connection with consideration of the relocation request.

**1.1.3** You agree that you will, at all times, faithfully, honestly and diligently perform your obligations under this Agreement, that you will continuously exert your best efforts to promote and enhance the business of the Franchised Restaurant and that you will not engage in any other business or activity that may conflict with your obligations under this Agreement, except the operation of other Margaritas Restaurants or other restaurants that you operate and that are franchised by us or our affiliates. For example, you may not use the Proprietary Marks or the System or sell our proprietary food and beverage products in any wholesale, e-commerce or other channel of distribution besides the retail operation of the Franchised Restaurant at the Franchised Location.

**1.2 No Exclusivity.** We do not grant you any exclusive rights to use the System or Proprietary Marks in any geographic area. Nothing in this Agreement prohibits us from, among other things: **(a)** operating or licensing others to operate at any location, during or after the term of this Agreement, any type of restaurant other than Margaritas Restaurants; **(b)** operating or licensing others to operate, during the term of this Agreement, Margaritas Restaurants at any location other than the Franchised Location; **(c)** operating or licensing others to operate, after this Agreement terminates or expires, Margaritas Restaurants at the Franchised Location; and **(d)** merchandising and distributing goods and services identified by the Proprietary Marks at any location through any other method or channel of distribution, including the Internet, wholesale, mail order or catalog. We reserve to ourselves all rights to use and license the System and the Proprietary Marks other than those expressly granted under this Agreement.

**1.3 Forms of Agreement.** You acknowledge that, over time, we have entered, and will continue to enter, into agreements with other franchisees that may contain provisions, conditions and obligations that differ from those contained in this Agreement. The existence of different forms of agreement and the fact that we and other franchisees may have different rights and obligations does not affect our or your duties to comply with the terms of this Agreement.

## 2 TERM; SUCCESSOR FRANCHISE TERMS

**2.1 Term.** The term of this Agreement (“Term”) begins on the Effective Date and expires at midnight on the day preceding the 10<sup>th</sup> anniversary of the date the Franchised Restaurant first opened for business, unless this Agreement is terminated at an earlier date as provided in Section 19. We may complete and forward to you a notice to memorialize the date the Franchised Restaurant first opened for business. In addition, if, during the Term, you lose the right to possession of the Franchised Location, then the Term will expire as of the date that you lose the right to possession. However, if the right to possession is lost through no action or failure to act on your part (except the failure to extend the lease for the Franchised Location through the Term), then you may relocate the Franchised Restaurant (without paying any additional initial franchise fee or transfer fee) at your expense, and the Term will not expire if: **(a)** you comply with the provisions in our current Operations Manual governing Sites and Leases and we accept the new location; **(b)** you construct and equip a new Franchised Restaurant at the new location in accordance with our then-current System standards and specifications; **(c)** the Franchised Restaurant is open to the public for business at the new location within 6 months after your loss of possession of the Franchised Location; and **(d)** you reimburse us for all reasonable expenses actually incurred by us in connection with the acceptance of the new location. We may condition our consent to your relocation request upon, among other things, the payment by you of an agreed upon minimum Royalty to us during the period in which the Franchised Restaurant is not in operation.

**2.2 Successor Franchise Terms.** When this Agreement expires, you will have the option to obtain two successor franchise terms, each of which will be for a period of 5 years, unless: **(a)** we have announced a decision to stop franchising the Margaritas concept; or **(b)** we decide to withdraw the Margaritas concept from the geographic market in which the Franchised Restaurant is located. You must give us written notice of your desire to exercise your option not more than 9 months and not less than 6 months before the end of the expiring term. The conditions for the second successor franchise term will be contained in the agreement in effect at the end of the first successor franchise term. We may require you to satisfy any or all of the following as a condition of exercising your option for the first successor franchise term:

**2.2.1** You must execute the standard form of Margaritas Franchise Agreement that we are then offering to new franchisees (or the standard form that we most recently offered, if we are not then offering to new franchisees) (“Successor Franchise Agreement”). The terms of the Successor Franchise Agreement may be substantially different from the terms of this Agreement. We will modify the Successor Franchise Agreement to delete terms inapplicable to the successor term (such as opening deadlines).

**2.2.2** During the expiring term, you have substantially complied with this Agreement and the System.

**2.2.3** You must not be in default under this Agreement or any other agreements between you and us 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 Franchised Restaurant; and you must not be in default beyond the applicable cure period with any vendor or supplier to the Franchised Restaurant.

**2.2.4** You must secure the right from your landlord to continue operating at the Franchised Location for the full term of the Successor Franchise Agreement.

**2.2.5** You must renovate and modernize the Franchised Restaurant to reflect the then-current image of Margaritas Restaurants.

**2.2.6** You and all Owners must sign a general release, in a form we prescribe, of any and all claims against us, our affiliates and our past, present and future officers, directors, shareholders, members and employees arising out of or relating to the Franchised Restaurant and/or this Agreement.

**2.2.7** You (or the Operating Principal (as defined in Section 8.11.2)) and those of your employees designated by us must successfully complete any additional training courses that we then require.

**2.3** If you continue to operate after the end of the Term or any Renewal Term without exercising an option to renew, you shall be deemed to be operating on a month to month basis under the terms and conditions of our then-current form of franchise agreement. In such circumstances, and notwithstanding the foregoing, we may on 10 days written notice terminate your Franchise Agreement.

### **3 LEASE PROVISIONS**

For any new or renewal leases for the Franchised Restaurant signed during the term of this Agreement, you must comply with the provisions for Sites and Leases set forth in our then-current Operations Manual.

### **4 CONSTRUCTION OF FRANCHISED RESTAURANT; OPENING DATE**

**4.1 Restaurant Development.** You assume all cost, liability and expense for developing, constructing and equipping the Franchised Restaurant. We will furnish to you prototypical plans and specifications for a Margaritas Restaurant, including requirements for dimensions, design, image, interior layout, décor, equipment and signs. At your costs, you must adapt our prototypical plans and specifications to suit the shape and dimensions of the Franchised Location and ensure that your proposed plans for the Franchised Restaurant (“Plans”) comply with the all applicable ordinances, building codes and permit requirements, lease requirements and restrictions and the Americans with Disabilities Act. You must use only registered architects, registered engineers and professional and licensed contractors. You must submit the Plans to us and revise the Plans as we require. Once we consent to the Plans, you may not change them unless you again obtain our consent. You may not submit the Plans to your local government agency or begin site preparation or construction before we have notified you, in writing, that we have consented to the Plans. You may not commence construction until you have obtained all required permits and licenses. During the course of construction, you must (and require your architect, engineer, contractors and subcontractors to) cooperate fully with us and our representatives for the purpose of permitting us and our representatives, if we so desire, to inspect the Franchised Location and the course of construction of the Franchised Restaurant to determine whether construction is proceeding according to the Plans.

#### **4.2 Opening Date.**

**4.2.1** You must open the Franchised Restaurant for business at the Franchised Location no later than 360 days after we have signed the Franchise Agreement for that site (“Opening Date”). By the Opening Date, you must: **(a)** obtain and maintain all required building, utility, sign, health, sanitation, liquor, business and other applicable permits and licenses; **(b)** construct all required improvements to the Franchised Location and decorate the exterior and interior of the Franchised Restaurant as required by the Plans to which we have consented; **(c)** purchase or lease and install all

specified and required fixtures, equipment, computer hardware, software, point of sale system, and related products and services, furnishings and signs for the Franchised Restaurant from suppliers designated or consented to by us (which may include us or our affiliates); and **(d)** purchase an opening inventory for the Franchised Restaurant of only authorized products and other materials and supplies.

**4.2.2** You must notify us at least 90 days before the anticipated Opening Date and the date of issuance of the certificate of occupancy. Upon our request, you must submit a copy of the certificate of occupancy to us. We reserve the right to conduct a final inspection of the Franchised Restaurant after receiving your notice to ensure that you have complied with this Agreement. You may not open for business without our prior written consent, which will not be granted unless you have satisfied the conditions in Section 4.3; however, our consent will not be unreasonably withheld. If you do not open the Franchised Restaurant for business by the Opening Date and we do not extend the deadline, we will have the right to terminate this Agreement under Section 19.1.

**4.3 Right to Open the Franchised Restaurant.** We will not authorize the opening of the Franchised Restaurant unless all of the following conditions have been met:

**4.3.1** 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 Franchised Restaurant; and you are not in default beyond the applicable cure period with any vendor or supplier to the Franchised Restaurant.

**4.3.2** You and your Owners (as defined in Section 13.1) are current on all obligations due to us.

**4.3.3** We are satisfied that the Franchised Restaurant was constructed substantially in accordance with the Plans accepted by us, this Agreement and state and local codes and that you have hired and trained a staff as required by this Agreement.

**4.3.4** If the Franchised Location is leased or subleased, we have received a copy of the fully-executed lease or sublease.

**4.3.5** You have obtained a liquor license authorizing the sale of alcoholic beverages at the Franchised Restaurant.

**4.3.6** You have obtained a certificate of occupancy and any other required health, safety or fire department certificates.

**4.3.7** You have certified to us, in writing, that the installation of all required furnishings, fixtures, equipment, signs, computer terminals and related equipment, supplies and other items is complete.

**4.3.8** You (or your Operating Principal) and those of your employees designated by us have attended and successfully completed our Initial Franchise Operations Program ("IFOP").

**4.3.9** You have provided us with copies of all insurance policies required by Section 8.12 or other evidence of insurance coverage and payment of premiums as we may reasonably request.

**4.3.10** You have provided us a Grand Opening Plan (as defined in Section 10.1) at least 60 days prior to the opening of the Franchised Restaurant.

## 5 FEES

**5.1 Initial Franchise Fee.** You must pay to us an initial franchise fee in the amount of \$40,000 ("Initial Franchise Fee"). You acknowledge and agree that the Initial Franchise Fee is fully earned by us when paid and is not refundable.

### 5.2 Royalty Fee.

**5.2.1** In addition to all other amounts that you will pay to us, you must pay to us a nonrefundable royalty fee ("Royalty") in an amount equal to 5% of your weekly Gross Sales (as defined below) for the right to use the System and the Proprietary Marks at the Franchised Location. The Royalty is due to us on the day of the week we designate in the Confidential Operating Manual based on the prior week's Gross Sales. If, due to federal, state or local laws, we are prohibited from receiving a percentage royalty based on alcoholic beverage revenues, you must pay a Royalty on all Gross Sales except alcoholic beverages in the same total dollar amount as you would have paid if you paid the specified percentage Royalty on all Gross Sales.

**5.2.2** The term "Gross Sales" includes all revenue from the sale of all services and products and all other income of every kind and nature (including stored value gift cards and gift certificates when redeemed, on-premise sales, off-premise sales, other sales made or sold, at, in or upon or from the Franchised Location, and any other type of sale) related to the Franchised Restaurant, whether for cash, in services in kind, from barter and/or exchange or credit and regardless of collection in the case of credit. Gross Sales will not include: **(a)** any bona fide documented federal, state, or municipal sales taxes collected by you from customers and paid by you to the appropriate taxing authority; **(b)** the sale of food, beverage or merchandise for which refunds have been made in good faith to customers; **(c)** the sale of equipment used in the operation of the Franchised Restaurant; **(d)** authorized customer promotional discounts; and **(e)** employee meal discounts.

**5.3 Advertising Obligations.** You must spend and/or contribute for advertising up to 4% of the weekly Gross Sales of the Franchised Restaurant ("Advertising Obligation"). The exact amount of the advertising fees to be spent and/or contributed by you, and the allocation of the advertising fees, as of the date of this Agreement, is set forth in Section 10 and Exhibit F.

**5.4 Sales Reports.** Within 3 days after the end of each week as defined in the Operations Manual, you must submit to us, in writing, by electronic mail, polling by computer or such other form or method as we may designate, the amount of Gross Sales of the Franchised Restaurant during the preceding week and any other data or information as we may require.

**5.5 Payment of Fees.** You must participate in our electronic funds transfer program ("EFT"), which authorizes us to use a pre-authorized bank transfer system. You agree to sign and complete the Authorization Agreement in Exhibit B and/or such other documents as we may require from time to time to authorize and direct your bank or financial institution to pay and deposit directly to our account. Your Royalty and Advertising Obligation and all other amounts owed under this Agreement and other agreements, including those for goods and services, and any interest charges, must be received by us or credited to our account by pre-authorized bank debit before 5:00 p.m. on the day of the week we specify ("Due Date"). You must furnish to us and your bank all authorizations necessary to effect payment by the methods we specify. We reserve the right to modify, at our option, the method by which you must pay the Royalty, Advertising Obligation and all other amounts owed under this Agreement and other agreements upon receipt of written notice from us. You may not, under any circumstances, set off, deduct or otherwise withhold any Royalties, Advertising Obligations, interest charges or any other monies payable under this Agreement or other agreements on grounds of our alleged non-performance of any obligations. No payment by you or acceptance by us of any monies under this

Agreement for a lesser amount than due will be treated as anything other than a partial payment on account. Regardless of any designation by you, we may apply your payments to your outstanding obligations in any order we choose.

**5.6 Interest.** If any payments by you due to us are not received in full by the Due Date, in addition to paying the amount owed, you must pay to us interest on the amount owed from the Due Date until paid at the Prime rate (established by Citibank or another bank selected by us) plus 6%, or the maximum rate permitted by law, if less.

**5.7 Partial Payments.** No payment by you of a lesser amount than due shall be treated as anything other than a partial payment on account, regardless of whether you include an endorsement, statement or accompanying letter to the effect that payment of the lesser amount constitutes full payment. We have sole discretion to apply any payments by you to any past due indebtedness and we have the right to accept payment from any other entity as payment by you without that entity being substituted for you.

**5.8 Collection Costs and Expenses.** You will pay us on demand any and all costs and expenses we incur in enforcing the terms of this Agreement, including costs and commissions due a collection agency, attorneys' fees, costs incurred in creating or replicating reports demonstrating Gross Sales of the Franchised Restaurant, court costs, expert witness fees, discovery costs and reasonable attorneys' fees and costs on appeal, together with interest charges on all of the foregoing.

## **6 TRAINING**

### **6.1 Initial Franchise Operations Program.**

**6.1.1** Before the Franchised Restaurant opens for business, you (or your Operating Principal), the Franchised Restaurant's general manager, two bartenders, and any managerial personnel that we designate must attend, and become certified in, the IFOP. The IFOP will include instruction through a learning management system platform and on-the-job training. We will provide the IFOP at a Company-Owned Restaurant and/or at one of our designated training facilities. We will not authorize the Franchised Restaurant to open until those employees that we designate have attended and successfully completed the IFOP.

**6.1.2** As a prerequisite to the IFOP, attendees must successfully complete a ServSafe food safety training and certification program administered by the National Restaurant Association Educational Foundation.

**6.1.3** There is no training fee for the IFOP; however, you must pay all salaries, benefits, travel, living and other expenses incurred by you and your employees while attending the training. We have the right to dismiss from the IFOP any person whom we believe will not perform acceptably in the position for which he/she has been hired, and you must provide a suitable replacement within 30 days of dismissal. In such event, we will have no obligation to extend the Opening Date.

**6.1.4** If you (or your Operating Principal) fail to complete the IFOP to our satisfaction, we may terminate this Agreement pursuant to Section 19.1 or permit you (or your Operating Principal) to repeat the IFOP at the next available scheduled training session; however, we will have no obligation to extend the Opening Date. We reserve the right to charge a training fee if you (or your Operating Principal) are required to repeat the IFOP.

**6.1.5** Prior to any training provided by us, you must have obtained and have in effect Workers' Compensation insurance covering every person who will be trained. You must provide to us

evidence of your Workers' Compensation insurance covering everyone attending training no later than 10 days before training commences.

## **6.2 Ongoing Training; Training of Replacement Personnel**

**6.2.1** We may require you (or your Operating Principal), your managerial personnel, training personnel and/or other previously trained and experienced staff members to attend and complete satisfactorily various training courses that we periodically choose to provide at the times and locations that we designate, as well as periodic conventions, regional meetings, and conferences that we specify. We may charge reasonable registration or similar fees for these courses. You agree to pay all salaries, benefits, travel, living and other expenses incurred by you and your employees during all training courses and programs.

**6.2.2** We require that your replacement managerial and training personnel satisfactorily complete our training programs within the time period required by the Manual after being designated as managerial or training personnel.

**6.2.3** You understand and agree that any specific ongoing training or advice we provide does not create an obligation (whether by course of dealing or otherwise) to continue to provide such specific training or advice, all of which we may discontinue and modify from time to time.

**6.3 Training Materials and Methods.** All training materials that we provide to you remain our property. Except for the initial training program, we have the right to provide training programs in person, on DVD, via the Internet, in printed or electronic format or by other means, as we determine.

**6.4 Employee Training Materials.** We require that you provide each employee in training with our current New Restaurant Opening Training Materials at your expense. Your cost of printing the Training Materials will vary depending of the number of employees hired.

## **7 ADDITIONAL SERVICES OFFERED BY US**

**7.1 Pre-Opening Assistance.** We will provide consultation and advice to you, as we deem appropriate, with regard to construction or renovation and operation of the Franchised Restaurant, building layout, furnishings, fixtures and equipment plans and specifications, employee selection and training, purchasing and inventory control and those other matters that we deem appropriate.

**7.2 Opening Assistance.** If the Franchised Restaurant is your first franchised restaurant, we will provide the services of an "Opening Team" of trainers for a period of 14 to 21 days to assist in opening the Franchised Restaurant and in training your non-managerial employees. We will also provide an "Opening Team" for your subsequently developed franchised restaurants. The number of trainers we provide will vary based on variables and specific requirements of your location. For your fourth and subsequently developed franchised restaurants, we will determine, in our sole discretion, whether to provide an Opening Team, the size of any Opening Team and the length of time the Opening Team will assist. You must pay for all reasonable travel expenses, meals, excluding alcohol, and lodging, at a nationally recognized hotel chain, 3 star-rated or better, in addition to a \$20.00 per diem miscellaneous expense reimbursement for each of the Opening Team trainers during each of these training periods. You must provide any necessary personnel, each of whom must have successfully completed our training program, in addition to our Opening Team.

**7.2.1 Delayed Opening.** If you schedule the services of the Opening Team and do not comply with the Notice of Delayed Opening requirements set forth in the Manual, you will

be obligated to reimburse us for the additional costs and expenses we incur due to the Delayed Opening.

**7.3 Post-Opening Assistance.** We periodically, as we deem necessary, will advise and consult with you regarding the operation of the Franchised Restaurant. We, as we believe necessary, will make available to you information regarding the System and new developments, techniques and improvements in the areas of restaurant design, operations, management, menu-development, sales and customer service, marketing and other areas. We may provide these services through visits by our representatives to the Franchised Restaurant or your offices, the distribution of printed or filmed material, an Intranet or other electronic forum, meetings or seminars, training programs, telephone communications or other forms of communications.

## **8 OPERATIONS**

**8.1 Compliance with Standards.** In recognition of the mutual benefits that come from maintaining the System's reputation for quality, you agree to comply with all mandatory specifications and procedures set forth periodically in the Manual. You acknowledge that the appearance, Trade Dress, services and operation of the Franchised Restaurant are important to us and all Margaritas franchisees.

**8.2 System Modifications.** We, in our sole discretion, may periodically change the System, including modifications to the Manual, the menu, the required equipment, the signs, the Proprietary Marks, the Trade Dress, new computer programs and systems, new types or brands of products or services, new equipment requirements or new techniques and that you will accept, use and display for the purpose of this Agreement any such changes in Our System, as if they were part of this Agreement at the time of execution. You must accept, use or display in the Franchised Restaurant any such System changes and make such expenditures as the System changes require. We also have the right to vary System standards, in our reasonable judgment, to accommodate circumstances of individual franchisees.

**8.3 Authorized Products and Services.** You may offer for sale and sell in the Franchised Restaurant only the products, services and brands that we have designated in the Manual or otherwise in writing. You must offer all items that we designate as mandatory. We may also designate some items as optional. We may change the mandatory and optional menu items, ingredients and other products and services in our sole discretion. We may require that you sell certain brands and prohibit you from selling other brands. You may sell products only in the varieties, weights, sizes, forms and packages that we have designated. You must use only authorized ingredients in the preparation of menu items. You may not use the Franchised Location for the sale or display of items not authorized by us. Within 15 days after we provide written notice to you, you must begin selling any newly authorized menu items (or using any newly authorized ingredients) and cease selling any menu item that is no longer authorized (or using any ingredient that is no longer authorized); however, if the discontinued menu item or ingredient could pose a hazard to the public or prove detrimental to the system, you must cease selling or using that item or ingredient immediately. All food, beverages and merchandise authorized for sale at the Franchised Restaurant must be offered for sale under the name that we specify. We periodically will provide you suggested retail prices for the products and services offered at the Franchised Restaurant and, to the extent permitted by applicable law, we may require that you adhere to our suggested prices, including maximum prices. If you have a suggestion for a new menu item or ingredient, or for a change to an authorized menu item or ingredient, or you wish to participate in a test market program, you must notify us before you implement any such change or commence any

such program. You may not add or modify any menu item or participate in a test market program without first obtaining our prior written approval.

**8.4 Market Research and Testing.** We may periodically conduct market research and testing to determine consumer trends and the salability of new food products and services. You must cooperate with us in connection with the conduct of such test marketing programs at your own expense and you must comply with our procedures that we established from time to time in connection such programs as set forth in the Manual, including your obligation to keep appropriate records and report their results to us.

**8.5 Your Development of System Improvements.** If you develop any new concepts, processes or improvements (including new menu items or ingredients) relating to the System (whether as part of testing conducted by us in accordance with Section 8.4 or otherwise), you must promptly notify us and provide us with all information regarding the new concept, process or improvement, all of which will become our property and may be incorporated into the System without any payment to you. You, at your expense, promptly must take all actions deemed necessary or desirable by us to vest in us ownership of such concepts, processes or improvements.

## **8.6 Sourcing of Products and Services**

**8.6.1** We have the right to require that all food and non-food products, supplies, equipment and services that you purchase for use, sale or resale in the Franchised Restaurant: **(a)** meet specifications that we establish from time to time; **(b)** be purchased only from suppliers that we have consented to (which may include us or our affiliates); and/or **(c)** be purchased only from a single source or from a limited number of designated sources (which may include us or our affiliates). To the extent that we establish specifications, require our consent to suppliers or designate specific suppliers for particular items, we will publish our requirements in the Manual. We may create purchasing restrictions to control the quality and selection, and ensure the consistency, of menu items, ingredients and other merchandise; to consolidate System purchases to reduce costs or ensure availability of products; or for other valid business reasons.

**8.6.2** You may not engage in “grey market” activities, in which you take advantage of any group purchasing arrangements for Margaritas Restaurants to purchase products that you then resell to purchasers outside of the System or use in a business outside of the System.

**8.6.3** If we or our affiliates receive any rebates, commissions or other payments from third-party suppliers based on your purchases from them, we may pay you your pro rata share of such rebates, commissions or other payments based on your purchases from those third-party suppliers.

**8.6.4** If you would like to offer products or services that are not part of the System, or purchase from a supplier who we have not consented to, you must submit a written request for consent. We have the right to inspect the proposed supplier’s facilities and test samples of the proposed products. You agree to pay to us a reasonable fee, not to exceed the actual cost of the inspection and testing the proposed product or evaluating the proposed supplier, including personnel and travel costs, whether or not the product or supplier is accepted. We have the right to grant, deny or revoke consent to products, services and suppliers in our sole discretion. We will notify you of our decision as soon as practicable following our evaluation. We reserve the right to reinspect the facilities and products of any accepted supplier and revoke acceptance upon the supplier’s failure to meet any of our then-current criteria.

**8.7 Upkeep of the Franchised Restaurant.** You must maintain the interior and exterior of the Franchised Restaurant and all fixtures, furnishings, signs and equipment in first-class condition and in the highest degree of cleanliness, orderliness, sanitation and repair in accordance with the requirements of the System and the Manual and the lease or sublease for the Franchised Location (if applicable). There is no limitation on the amount that you may be required to spend for repairs and maintenance. You may not make any alteration, addition, replacement or improvement in, or to, the interior or exterior of the Franchised Restaurant without our prior written consent.

**8.8 Remodeling.** In addition to ordinary upkeep, we have the right to require you to update and remodel the Franchised Restaurant to conform to the design, Trade Dress, color schemes and presentation of the Proprietary Marks that we are then requiring of new Margaritas Restaurants. You must update and remodel the Franchised Restaurant no later than 5 years after you last remodeled or 5 years after the Opening Date if you have not yet remodeled. All signage, including point of sale, exterior and interior signage, is considered a maintenance expenditure under Section 8.7 rather than a remodeling expenditure under this Section.

### **8.9 Maximum Operation of the Franchised Restaurant**

**8.9.1** During the Term, you must use the Franchised Location solely for the operation of the Franchised Restaurant and maintain sufficient inventories, adequately staff each shift with qualified employees and continuously operate the Franchised Restaurant at its maximum capacity and efficiency for the minimum number of days and hours set forth in the Manual or as we otherwise specify in writing (subject to the requirements of local laws and licensing requirements).

**8.9.2** You must immediately resolve any customer complaints regarding the quality of food or beverages, service and/or cleanliness of the Franchised Restaurant or any similar complaints. When any customer complaints cannot be immediately resolved, you must use your best efforts to resolve the customer complaints as soon as practical and, whenever feasible, give the customer the benefit of the doubt. If we, in 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 customer complaints, we may, without your consent, resolve any complaints and charge you an amount sufficient to cover our reasonable costs and expenses in resolving the customer complaints, which amount you must pay to us immediately on demand.

**8.10 Employees.** You have sole responsibility for all employment decisions and functions related to the Franchised Restaurant, including hiring, firing, compensation, benefits, work hours, work rules, recordkeeping, supervision, discipline, all acts of your employees, record keeping, withholding income tax, social security contributions, Medicare contributions, unemployment fund contributions and all other terms of employment of your employees. You must enforce all dress and appearance standards for employees that we may establish. You must maintain a competent, conscientious, trained staff with enough members to operate the Franchised Restaurant in compliance with our standards. You must verify that your employees meet all state and local requirements for certification and meet all prerequisites for employment in the United States. You expressly agree, and will never contend otherwise, that our authority under this Agreement to certify certain of your employees for qualification to perform certain functions for your Franchised Restaurant does not directly or indirectly vest in us the power to hire, fire or control any such employee. You must disclose to each of your employees in writing, in a form approved by us in advance, that we are not a "joint employer" of your employees and acknowledge that we do not control your personnel policies.

## 8.11 Management Supervision

**8.11.1** The Franchised Restaurant must at all times be under the personal, on-premises supervision of one of the following designated individuals, who must meet our applicable training qualifications for their position: the Operating Principal, a general manager, an assistant manager, a kitchen manager, or, for specific limited periods of time, as authorized by us, a Shift Leader. The Franchised Restaurant must have a minimum of 3 trained managers. At all times that the Franchised Restaurant is open for business, at least one person must be on site who has been trained in ServSafe food safety as required by Section 6.1.2 and completed any other locally-required safety or health training.

**8.11.2** If you are a business entity, you must appoint an individual to serve as your Operating Principal. The Operating Principal must be accepted by us, must devote full-time and best efforts to supervising the operation of the Franchised Restaurant and must be an Owner (as defined in Section 13.1.2). The Operating Principal as of the Effective Date is identified in Exhibit A. The Operating Principal must complete the Owners Orientation, IFOP training program, have authority over all business decisions related to the Franchised Restaurant and have the authority to bind you in your dealings with us. We will provide all services to, and communicate primarily with, the Operating Principal. You must obtain our prior written consent before you change the Operating Principal. If the Operating Principal no longer qualifies as such, you must designate another qualified person to act as the Operating Principal within 30 days after the date the prior Operating Principal ceases to be qualified.

**8.11.3** You or the Operating Principal must remain active in overseeing the operations of the Franchised Restaurant, including without limitation, regular, periodic visits to the Franchised Restaurant and sufficient communications with us to ensure that the Franchised Restaurant's operations comply with the operating standards as promulgated by us from time to time in the Manual or otherwise in written or oral communications.

**8.11.4** A Key Employee is anyone who is an owner, partner, and/or employee who acts in a management or supervisory capacity for the Franchised Restaurant. You shall identify all of your Key Employees in Exhibit E of this Agreement. Each individual listed in Exhibit E as a Key Employee no matter when so listed shall attend our IFOP, and shall thereafter be jointly and severally responsible for operating the Franchised Restaurant in accordance with the standards of the System and this Agreement. You represent and warrant that each of the so-named individuals will at all times abide by the standards and specifications of the System, this Agreement, and the Rights herein; that you will at all times assume personal responsibility for their continued compliance with those standards and specifications; and that you will promptly notify us if any of them shall at any time during the term of this Agreement divest themselves of ownership, partnership, or employment, as the case may be, with you. You shall amend Exhibit E and submit the amended Exhibit to us whenever there is any change in your Key Employees of Franchisee. We reserve the right to require certain individuals to be included in your list of Key Employees. Except to the extent prohibited by the laws of the state where the Franchised Restaurant is located or where the employee lives or works, Every Key Employee must sign a Non-Disclosure and Non-Competition Agreement, in a form we must approve. You must provide a copy of each Key Employee's signed Non-Disclosure and Non-Competition Agreement to us prior to the training of such Key Employee.

**8.12 Insurance.** During the Term, you must maintain in full force and effect, at your expense that insurance which you determine to be necessary, which must include at least the types of insurance and the minimum policy limits specified in the Manual.

Our current minimum coverage is as follows:

1. Workers' Compensation and Employers' Liability Insurance with coverage in the minimum amount for each employee of \$500,000 for Bodily Injury by Accident and \$500,000 for Bodily Injury by Disease.
2. Commercial General Liability Insurance including Bodily Injury and Property Damage Coverage, Premises Coverage, Products and Completed Operations Coverage, Contractual Liability Coverage and Independent Contractor's Liability Coverage with limits not less than the following:
  - \$2,000,000 General Aggregate
  - \$2,000,000 Products and Completed Operations Aggregate
  - \$1,000,000 Each Occurrence
  - \$1,000,000 Personal and Advertising Injury
3. Commercial Automobile Insurance for all owned, non-owned and hired vehicles with a combined single limit of not less than \$1,000,000 for Bodily Injury and Property Damage Liability.
4. Liquor Law Liability Insurance with limits not less than the following:
  - \$1,000,000 Each Common Cause
  - \$2,000,000 Aggregate Limit
5. Umbrella Liability Insurance with limits not less than the following:
  - \$2,000,000 Each Occurrence
  - \$2,000,000 Products Completed Operations Aggregate
  - \$2,000,000 General Aggregate
6. Employment Practices Liability Insurance with limits not less than \$100,000 Each Occurrence.

Each insurance policy must be written by an insurance company that is licensed in the state where work is to be performed and that maintains an "A++" or better rating by the latest edition of Best's Insurance Rating Service (or another rating service designated by us). All insurance and coverages must be primary and non-contributory to any insurance coverage maintained by us. The insurance policy or policies must protect you, us and our respective past, present and future officers, directors, owners, employees, servants, representatives, consultants, attorneys and agents. We and our affiliates must be named as additional insureds in the policy or policies (statutory policies excepted). Each policy must include a waiver of subrogation in our favor. We may require additional types of coverage or increase the required minimum amount of coverage upon reasonable notice. Your obligation to obtain coverage is not limited in any way by insurance that we maintain. Your Workers' Compensation insurance must be in effect prior to any training provided by us. You must provide to us evidence of your Workers' Compensation insurance covering everyone attending training no later than 10 days before training commences. All other insurance must be in effect when you take possession of the Franchised Location. You must provide to us certificates of all of your insurance policies no later than 10 days before the Franchised Business opens. Furthermore, throughout the Term of this Agreement, you must provide to us current certificates of all required insurance and proof of payment evidencing that you are carrying in force all required insurance coverage insuring you and us. The evidence of insurance must include a statement by the insurer that the policy or

policies will not be canceled or materially altered without at least 30 days' prior written notice to us. If you fail to obtain and maintain insurance coverage as required by this Agreement, we have the right, but not the obligation, to obtain the required insurance on your behalf and to charge you for the cost of the insurance, plus a reasonable fee for our services in procuring the insurance.

**8.13 Inspections.** We have the right, at any time during normal business hours to: **(a)** conduct inspections of (and photograph and record) the Franchised Location and the Franchised Restaurant; **(b)** interview your employees, suppliers and customers; and **(c)** review your business records, including those maintained electronically or off-premises. We can initiate these actions with or without prior notice to you, except that prior notice is required for a financial examination or audit as provided in Section 9.4. You must cooperate by giving our representatives unrestricted access and rendering such assistance as they may reasonably request. If we notify you of any deficiencies after the inspection, you must promptly take steps to correct them. Any evaluation or inspection we conduct is not intended to exercise, and does not constitute, control over your day-to-day operation of the Franchised Restaurant or to assume any responsibility for your obligations under this Agreement

#### **8.14 Taxes**

**8.14.1** You must promptly pay when due all taxes levied or assessed (including, without limitation, unemployment and sales taxes) and all accounts and other indebtedness of every kind incurred by you in the conduct of the Franchised Restaurant under this Agreement. If any taxes, fees or assessments are imposed on us by reason of our acting as franchisor or licensing the Proprietary Marks, you must reimburse us the amount of those taxes, fees or assessments within 30 days after receipt of an invoice from us.

**8.14.2** 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; however, in no event will you permit a tax sale or seizure by levy of execution or similar writ or warrant, or attachment by a creditor, to occur against the Franchised Restaurant and/or Franchised Location (or any improvements thereon).

**8.15 Compliance with Laws and Good Business Practices.** You must secure and maintain in force in your name all required licenses, permits and certificates relating to the operation of the Franchised Restaurant. You must operate the Franchised Restaurant in full compliance with all applicable laws, ordinances and regulations, including those governing or relating to the handling of food products, immigration and discrimination, occupational hazards and health insurance, employment laws, including Workers' Compensation insurance, unemployment insurance and the withholding and payment of federal and state income taxes, social security taxes and sales taxes. You must notify us, in writing, within 2 days after: **(a)** the commencement of any proceeding or the issuance of any decree of any court or government agency that may adversely affect the operation or financial condition of you or the Franchised Restaurant; or **(b)** receiving any notice of violation of any law, ordinance or regulation relating to health or sanitation at the Franchised Restaurant. In your dealings with customers, suppliers and the public, you will adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct and you will refrain from any business or advertising practice that may harm the goodwill associated with the Proprietary Marks or the System.

**8.16 Adoption of Quality and Assurance Program.** You must adopt, at your expense, the Customer Quality and Assurance Programs, including, but not limited to, participation in programs associated with guest satisfaction, and the Health and Safety Quality Assurance Programs, including quarterly audits, used by Margaritas Restaurants operated by MMGI.

**8.17 Payment Card Industry (PCI) Data Security Standards (DSS) Compliance.** You must comply with the PCI DSS for processing credit card payments including scanning certifications, allowing vulnerability scans and submitting attestations of compliance and as more completely set forth in our Manual. It is your responsibility to make sure that you are in compliance with all laws that are applicable to the point of sale System or other technology used in the operation of your Franchised Restaurant, including all data protection or security laws as well as PCI DSS compliance. We reserve the right to require compliance with other data or privacy standards in the future.

**8.18 Gift Card Program.** You must participate in our centralized gift card program as set forth in our Manual at your expense. You are responsible for printing, print preparation costs, and shipping for cards at the cost charged by our authorized vendors, as well as graphic design for any custom requests. The cost of printing may vary per card depending on volume. Print preparation costs vary depending on complexity and if new designs are requested. These costs are subject to change by the authorized vendors.

**8.19 Credit Card Program.** You must accept all brands of credit card as we require and as described in our Manual. Vendors charge variable monthly fees to participate in the various programs. These costs are subject to change by the authorized vendors.

**8.20 Technology Support.** After the opening assistance we provide to you, you must provide your own technology ("IT") support. If you request and we agree to provide IT support to you at any given time, you must pay us our then-current fee per our Manual for this IT support by EFT.

## **9 COMMUNICATIONS, ACCOUNTING AND RECORDS**

**9.1 Recordkeeping.** You will keep complete and accurate books, records and accounts in the form and manner prescribed in the Manual. You must preserve all of your books and records in electronic form for at least 7 years from the date of preparation, or longer as required by government regulations, and make them available to us within 5 days after our written request.

**9.2 Computer System.** You must obtain and install, at your expense, the hardware, software, and network connections that we specify from time to time. You agree to: **(a)** maintain on the computer system only the financial and operating data specified in the Manual; **(b)** transmit data to us in the form and at the times required by the Manual; **(c)** give us unrestricted access to your computer system at all times (including users IDs and passwords, if necessary) to download and transfer data via secure modem or other connection as we determine; **(d)** maintain the computer system in good working order at your own expense; **(e)** replace or upgrade the computer system as we require (but not more than once a year); **(f)** install high speed Internet and/or communications connections; **(g)** ensure that your employees are adequately trained in the use of the computer system and our related policies and procedures; and **(h)** use any proprietary software and other proprietary materials that we provide to you in connection with the operation of the Franchised Restaurant and, if we so require, execute a licensing agreement and pay to us a reasonable licensing fee for the use of such proprietary software. You may not install any software other than authorized upgrades or make any hardware modifications to the computer system without our express written consent. You acknowledge that computer designs and functions change periodically and that we may desire to make substantial modifications to our computer specifications or to require installation of entirely different systems during the Term.

**9.3 Reports and Financial Statements.** You must, at your expense, submit to us, in the form prescribed by us, a quarterly profit and loss statement and balance sheet (both of which may be unaudited) within 30 days after the end of each fiscal quarter (as defined by us) during each fiscal year (as defined by us). We will have the right, to be exercised in our sole discretion, to require that you provide us profit and loss statements and balance sheets, or other reports and information relating to

the Franchised Restaurant at other times that we request. You or your treasurer or chief financial officer must sign each statement and balance sheet, attesting that it is correct and complete and uses accounting principles applied on a consistent basis that accurately and completely reflect your financial condition.

**9.4 Audit Rights.** During and after the Term, we have the right to inspect, copy and audit your books and records, your federal, state and local tax returns and any other forms, reports, information or data that we may reasonably designate. We will provide you 10 days written notice before conducting an in-person financial examination or audit. We (or our designees) may conduct the examination or audit at our offices or those of a third party, in which case we may require you to send us your records. If the examination or audit reveals an understatement of Gross Sales, you must immediately pay to us any Royalty, Advertising Obligations or other amounts owed, plus interest as provided in Section 5.6. If an inspection or audit is made necessary by your failure to provide reports or supporting records as required under this Agreement, or to provide such reports or records on a timely basis, or if the audit or inspection reveals an understatement of Gross Sales of greater than 2% for the audit period, you must reimburse us for the full cost of the inspection or audit, including travel, lodging, meals and wages of our representatives and the reasonable charges of any attorneys or independent accountants we use for the inspection or audit and, upon our request, you must thereafter provide us with periodic audited financial statements. The remedies set forth in this Section are in addition any other remedies and rights available to us under this Agreement or applicable law.

**9.5 Ownership of Data.** You agree that all data that you collect from customers or others in connection with the Franchised Restaurant is deemed to be owned by us. You have the right to use the customer data while this Agreement or a Successor Franchise Agreement is in effect, but only in accordance with any privacy policy that we may establish from time to time.

**9.6 Franchisee Advisory Committee.** We reserve the right to create a franchisee advisory committee ("FAC"), although we are not required to establish one. 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 are 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.

## **10 BRAND FUND AND MARKETING**

**10.1 Grand Opening Plan.** You must conduct initial marketing for the Franchised Restaurant in accordance with a grand opening plan that you have prepared and to which we have consented ("Grand Opening Plan"). The Grand Opening Plan will require you to spend a minimum of \$10,000 on grand opening activities over the period beginning one month prior to opening and continuing through the second month after opening. Guidelines for grand opening activities will be included in the Manual. Within 10 days after the end of the period in which you conduct this initial marketing, you must submit appropriate documentation to verify compliance with the grand opening expenditure obligation.

**10.2 Contributions/Expenditures.** During the Term, you shall have an Advertising Obligation as set forth in Section 5.3 and Exhibit F. Following written notice to you, we may modify the amount and allocation of the Advertising Obligation subject to the provisions of Section 10.6. If any portion of the Advertising Obligation is allocated to the Brand Fund or a Regional Advertising Fund, you shall pay those amounts at the same time and in the same manner as the Royalty.

### **10.3 Brand Fund.**

**10.3.1** You must contribute to the Brand Fund the amount set forth in Exhibit F. We may use the Brand Fund Contributions and any earnings of the Brand Fund for any costs associated

with advertising, marketing, public relations, promotional programs and materials (which may be national or regional in scope) and/or any other activities that we believe would benefit the System, including the following: advertising campaigns in various media; point-of-purchase materials; review of locally-produced ads; free standing inserts; brochures; purchasing and/or developing promotional materials; market research, including secret shoppers; loyalty programs; sponsorships; design and maintenance of a web site; celebrity endorsements; trade shows; association dues; search engine optimization costs; establishment of a third party facility for customizing local advertising; accounting costs; other related costs; and holding an annual franchisee convention. We will not use the Brand Fund for any activity whose sole purpose is the marketing of franchises; however, you acknowledge that the Margaritas web site, public relations activities, community involvement activities and other activities that may be supported by the Brand Fund may contain information about franchising opportunities. We have the right to direct all programs supported by the Brand Fund, with final discretion over creative concepts, the materials and media used in the programs and their placement. We do not guarantee that you will benefit from the Brand Fund in proportion to your contributions to the Brand Fund.

**10.3.2** Company-Owned Restaurants will contribute to the Brand Fund on the same basis as comparable franchisees. If we reduce the Brand Fund Contribution for franchisees, we will have the right to reduce the required contribution for applicable Company-Owned Restaurants by the same amount.

**10.3.3** We will deposit all contributions to the Brand Fund in an account separate from our other funds and will not use any contributions to the Brand Fund to defray any of our general operating expenses, except for reasonable administrative costs and overhead that we incur in activities reasonably related to the administration of the Brand Fund or the management of Brand Fund-supported programs (including salaries of our personnel who devote time to Brand Fund activities).

**10.3.4** Any point-of-sale materials produced with Brand Fund monies will be made available to you at a reasonable cost, and the proceeds of such sales will be credited to the Brand Fund. We are not required to have an independent audit of the Brand Fund completed. We will make available an unaudited statement of contributions and expenditures for the Brand Fund no sooner than 90 days after the close of our prior fiscal year to franchisees who make a written request for a copy.

#### **10.4 Regional Advertising Fund.**

**10.4.1** We have the right, in our sole discretion, to establish one or more regional advertising funds for Margaritas Restaurants ("Regional Advertising Funds"). If a Regional Advertising Fund is established for a geographical area that includes the Franchised Location, you must contribute to that Regional Advertising Fund in the amount specified set forth in Exhibit F, as subsequently modified by us. Margaritas Restaurants operated by us and our affiliates in an area covered by a Regional Advertising Fund will contribute to the Regional Advertising Fund on the same basis as comparable franchisees.

**10.4.2** We or our designee shall direct all advertising, marketing, and public relations programs and activities financed by the Regional Advertising Fund, with sole discretion over the creative concepts, materials and endorsements used in those programs and activities, and the geographic, market and media placement and allocation of advertising and marketing materials. You agree that the Regional Advertising Fund may be used to pay the costs of preparing and producing such associated materials and programs as we or our designee may determine, including video, audio and written advertising materials; employing advertising agencies; sponsorship of sporting, charitable or similar events; administering regional and multi-regional advertising programs, including, without limitation, purchasing direct mail and other media advertising and employing advertising agencies to assist with

these efforts; and supporting public relations, market research and other advertising, promotional and marketing activities. You agree to participate in all advertising, marketing, promotions, research and public relations programs instituted by your Regional Advertising Fund.

**10.4.3** We will separately account for each Regional Advertising Fund, but we do not need to segregate any Regional Advertising Fund monies from our other monies. We are not required to have an independent audit of the Regional Advertising Fund completed. We will make available an unaudited statement of contributions and expenditures for the Regional Advertising Fund that covers the Franchised Location no sooner than 90 days after the close of our prior fiscal year to franchisees who make a written request for a copy.

## **10.5 Local Marketing.**

**10.5.1** You shall spend, at a minimum, that portion of the Advertising Obligation not otherwise spent or contributed pursuant to this Section 10 for local marketing in authorized advertising media and for authorized advertising expenditures. We or our designee periodically shall advise you of the authorized advertising media and authorized advertising expenditures.

**10.5.2** You agree to conduct all marketing in a dignified manner and in accordance with the standards and requirements we specify periodically. We will provide you with access to a marketing manual, guidelines for creating a marketing plan, scripts and branding tools. You may be required to pay a reasonable fee for accessing and customizing local advertising and promotional materials. You agree that all advertising and promotional materials must bear the Proprietary Marks in the form, color, location and manner that we prescribe. We will have the final decision on all creative development of advertising and promotional messages.

**10.5.3** You must submit to us in writing for our prior acceptance all sales promotion materials and advertising that have not been prepared, or previously accepted, by us. If our written consent is not received within 10 days after the date that we received the material, the material may not be used. In no event will your advertising or marketing materials contain any statement or material that, in our sole discretion, may be considered: **(a)** in bad taste or offensive to the public or to any group of persons; **(b)** defamatory of any person or an attack on any competitor; **(c)** to infringe upon the use, without permission, of any other persons' trade name, trademark, service mark or identification; **(d)** inconsistent with the public image of the System or the Proprietary Marks; or **(e)** not in accordance with any federal or state law. We reserve the right to require you to discontinue the use of any advertising or marketing materials.

**10.6 Changes in the Advertising Obligation.** We have the right, following written notice to you, to reallocate the Advertising Obligation and to increase the Advertising Obligation; however, once we establish a Regional Advertising Fund that covers the Franchised Location, we will not increase the Advertising Obligation by more than ½% of Gross Sales in any 12 month period.

**10.7 Web Page and Social Media.** You agree not to promote, offer or sell any products or services relating to the Franchised Restaurant through, or use any of the Proprietary Marks on, the Internet, social networking sites, or other future technological avenues without our prior written consent, which we may withhold for any or no reason. You agree that you will adhere to the social media policy contained in our Manual and any other social networking policies and standards we issue from time to time. You may not establish an independent web site. If we authorize you to have and/or design a web page for the Franchised Restaurant, your web page may only be accessed from our web site and we may prohibit links between your web page and any other web site. You acknowledge that your web page constitutes advertising and promotion subject to this Section 10, and you agree to comply with any additional policies and standards we issue from time to time with respect to web sites and web

pages specifically. You acknowledge that any copyright in your web page will be deemed to be owned by us, and you agree to sign any documents that we reasonably deem necessary to affirm our ownership of the copyright. If necessary, you must ensure cooperation with us by any web site service provider or web site hosting company with which you do business. You represent that you have or will have the lawful right to use any proprietary materials of others that appear on your web page. We periodically will provide to you content for your web page, including copy, news stories and photographs. We must consent to any changes to your web page.

**10.8 Public and Media Relations.** You agree that you will not issue any press or other media releases or other communications without our prior written consent. As a franchisee of the System, you agree to only participate in internal and external communications activities that create goodwill, enhance our public image and build the Margaritas brand. You must participate in our loyalty program as set forth in our Manual. Your participation will permit our unrestricted access to customer data. We restrict, designate and have the right to approve or control all of your electronic communications and social media, including Internet.

## **11 PROPRIETARY MARKS AND TRADE DRESS**

**11.1 Limited Right to Use.** Your right to use the Proprietary Marks and Trade Dress applies only to the Franchised Restaurant operated at the Franchised Location as expressly provided in this Agreement. We will provide you guidelines for the use of the Proprietary Marks and Trade Dress. Both during and after the Term, you agree not to directly or indirectly contest or aid in contesting the validity or our and our affiliates' ownership of the Proprietary Marks or take any action detrimental to our or our affiliates' rights in the Proprietary Marks and Trade Dress.

**11.2 Acknowledgments.** You acknowledge that: **(a)** the Proprietary Marks are valid and serve to identify our products, services and Margaritas Restaurants; **(b)** your use of the Proprietary Marks and Trade Dress under this Agreement does not give you any ownership interest in them; and **(c)** all goodwill associated with the Proprietary Marks and Trade Dress inures exclusively to our and our affiliate's benefit and is our property. Upon the expiration or termination of the Term, no monetary amount will be attributable to goodwill associated with your activities as a franchisee under this Agreement.

**11.3 Specific Restrictions on Use.** You agree:

**11.3.1** To use only the Proprietary Marks and Trade Dress that we designate, and only in the manner we authorize.

**11.3.2** To use the Proprietary Marks and Trade Dress only for the operation of the Franchised Restaurant at the Franchised Location and in advertising for the Franchised Restaurant.

**11.3.3** To operate and advertise the Franchised Restaurant only under the name "Tio Juan's Margaritas Mexican Restaurant" without prefix or suffix and certain other Proprietary Marks that we have designated, or may in the future designate, for use with the System.

**11.3.4** To display the Proprietary Marks in the Franchised Restaurant, on the Franchised Location, and on brochures and other printed materials, employee uniforms and vehicles only in the manner that we authorize.

**11.3.5** Not to use the Proprietary Marks as part of your entity or legal name.

**11.3.6** To permit us or our representatives to inspect your operations to verify that you are properly using the Proprietary Marks and Trade Dress.

**11.3.7** To use the Proprietary Marks to promote and to offer for sale only the products and services that we have authorized, and not use any of the Proprietary Marks or Trade Dress in association with the products, materials or services of others.

**11.3.8** Not to use or permit the use of the Proprietary Marks as part of any Internet domain name or e-mail address or in the operation of any Internet web site without our prior written consent.

**11.3.9** Not to use the Proprietary Marks to incur any obligation or indebtedness on our behalf.

**11.3.10** To ensure that the Proprietary Marks bear the "®", "™", or "SM" symbol, as we prescribe from time to time.

**11.4 Changes to the Proprietary Marks.** We have the absolute right to change, discontinue, or substitute for any of the Proprietary Marks and to adopt new Proprietary Marks for use with the System without any liability for any diminishment of the System. You agree to implement any such change at your own expense, regardless of the reason for the change, within the time that we reasonably specify.

**11.5 Third-Party Challenges.** You agree to notify us promptly of any unauthorized use of the Proprietary Marks or Trade Dress that you suspect or of which you have knowledge. You also agree to inform us promptly of any challenge by any person or entity to the validity of, our ownership of, or our right to license others to use, any of the Proprietary Marks or Trade Dress. You acknowledge and agree that we have the right, but not the obligation, to initiate, direct and control any litigation or administrative proceeding relating to the Proprietary Marks or Trade Dress, including, but not limited to, any settlement. You agree to sign all documents and render any other assistance we may deem necessary to the defense or prosecution of any such proceeding.

## **12 MANUAL**

**12.1** We will furnish you with one copy of, or electronic access to, the Manual, on loan, for as long as this Agreement or a Successor Franchise Agreement remains in effect. (As used in this Agreement, the term "Manual" also includes all written correspondence from us regarding the System, other publications, materials, drawings, memoranda, videotapes, CDs, DVDs, audio tapes, and electronic media that we from time to time may provide to you.) The Manual contains detailed standards, specifications, instructions, forms, reports and procedures for management and operation of the Franchised Restaurant. You acknowledge and agree that the Manual and other system communications will be in the English Language. We reserve the right to furnish all or part of the Manual to you in electronic form or online (including by Intranet) and establish terms of use for access to any restricted portion of our web site.

**12.2** You acknowledge that we own the copyright in the Manual and that all copies of the Manual in your possession remain our property. You agree to treat the Manual, training materials and any other manuals or materials created or authorized by us for use with the System as secret and confidential. You agree not to modify, copy, duplicate, record or otherwise reproduce the Manual or other materials provided by us, in whole or in part. In addition, you agree not to make any confidential information or materials supplied by us available to any unauthorized person without our prior written consent.

**12.3** We periodically may amend the Manual by letter, electronic mail, bulletin, DVD, CD, videotape, audio tapes, software or other forms of communication. We also reserve the right to replace the entire Manual with an updated version at our sole discretion. You agree to keep your copy of the Manual up-to-date and to comply with each new or changed standard promptly upon receipt of notice from us. If a dispute relating to the contents of the Manual develops, our copy of the Manual maintained at our principal office controls. You agree to operate the Franchised Restaurant at all times in strict conformity with the Manual.

**12.4** Any required standards exist to protect our interests in the System and Proprietary Marks and not for the purpose of establishing any control or duty to take control over those matters that are reserved to you. The required standards generally will be set forth in the Manual or other written materials. The Manual also will include guidelines or recommendations in addition to required standards. In some instances, the required standards will include recommendations or guidelines to meet the required standards. You may follow the recommendations or guidelines or some other suitable alternative, provided you meet and comply with the required standards. In other instances, no suitable alternative may exist. In order to protect our interests in the System and Proprietary Marks, we reserve the right to determine if you are meeting a required standard and whether an alternative is suitable to any recommendations or guidelines.

## **13 YOUR ORGANIZATION**

### **13.1 Governing Documents.**

**13.1.1** If you are (or Transfer your interests in this Agreement to) a business entity, during the Term, your governing documents must provide that your activities are limited exclusively to the development and operation of the Franchised Restaurant and other restaurants operated by you that are franchised by us or our affiliates and that no Transfer (as defined in Section 15) of an ownership interest may be made except in accordance with Section 15 of this Agreement. Any security or other ownership certificates that you issue must bear a conspicuous printed legend to that effect.

**13.1.2** You must furnish us with a list of holders of direct or indirect equity interests of 5% or more ("Owners") and their percentage interests, as well as copies of your governing documents (and any amendments thereto) and any other corporate documents, books or records that we may request. If any of your Owners is another business entity, you must also furnish us with a list of the Owners of that entity and their percentage interests. Your Owners and their respective equity interests as of the Effective Date are identified in Exhibit A.

**13.2 Acknowledgment by Owners.** Owners acknowledge that, by signing the Guaranty Agreement attached as Exhibit D, they are personally binding themselves to the performance of all the obligations, covenants, representations and agreements set forth in this Agreement. Owners acknowledge that, by signing the Owner's Acknowledgment attached as Exhibit C, they are binding themselves to the confidentiality and non-competition restrictions of this Agreement, including Section 17. With respect to Section 17.3, the time period will run from the expiration, termination, or Transfer of this Agreement or from the termination of the Owner's relationship with you, whichever occurs first. If we request, you must obtain from your officers, directors and those employees that we designate, and furnish to us, executed agreements with restrictions similar in substance to Section 17. The agreements must be in a form acceptable to us and specifically identify us as having the independent right to enforce them.

## 14 TRANSFER BY US

We have the unrestricted right to transfer or assign all or any part of our interest in this Agreement to any person or legal entity without your consent. You agree that we will have no liability after the effective date of transfer or assignment for the performance of, or any failure to perform, any obligations transferred. We also have the right to delegate to others the performance of any of our duties under this Agreement.

## 15 TRANSFER BY YOU

**15.1 Definition of Transfer.** For purposes of this Agreement, "Transfer" means any sale, assignment, transfer, conveyance, give away, pledge, mortgage or other encumbrance, either voluntarily or by operation of law (such as through divorce or bankruptcy proceedings) of any interest in this Agreement, the Franchised Restaurant, the Franchised Location, the lease for the Franchised Restaurant, the assets of the Franchised Restaurant, your ownership interests (if you are a business entity) or any other assets pertaining to your operations under this Agreement.

**15.2 No Transfer Without Our Consent.** You acknowledge that this Agreement is personal to you and we have selected you as a franchisee based on our reliance on your (or your Owners') character, skill, aptitude and business and financial capacity. Neither you nor any of your Owners may make any Transfer or permit any Transfer to occur without obtaining our prior written consent. The decision as to whether to consent to a Transfer will be made in the exercise of our business judgment, but our consent will not be unreasonably withheld. We have the right to communicate with and counsel you and the proposed transferee on any aspect of a proposed Transfer. You agree to provide any information and documentation relating to the proposed Transfer that we reasonably require. Unless otherwise agreed, we do not waive any claims against the transferring party if we consent to the Transfer.

**15.3 Transfer Generally.** Except as otherwise provided in this Section 15, if you propose to undertake a Transfer, the following conditions apply (unless waived by us):

### 15.3.1 You must:

(a) Be in compliance with all obligations to us under this Agreement and any other agreement you have with us, our affiliates, any lenders that have provided financing pursuant to an arrangement with us and your major suppliers as of the date of the request for our consent to the Transfer.

(b) Pay to us a transfer fee equal to 25% of our then-current Initial Franchise Fee to reimburse us for our reasonable costs and expenses incurred in reviewing and documenting the Transfer, including legal and accounting fees.

(c) Make the Transfer only in conjunction with a simultaneous Transfer of your Area Development Agreement (if still in effect) and your other Margaritas Franchise Agreements.

(d) Advise us in writing of any proposed Transfer, submit (or cause the proposed transferee to submit) a franchise application for the proposed transferee, submit a copy of all contracts and all other agreements or proposals and submit all other information requested by us relating to the proposed Transfer.

**15.3.2** The proposed transferee (and if the proposed transferee is not a natural person, all persons that have any direct or indirect interest in the transferee as we may require) must

demonstrate to our satisfaction extensive experience in high quality restaurant operations of a character and complexity similar to Margaritas Restaurants; must meet the managerial, operational, experience, quality, character and business standards for a developer promulgated by us from time to time; must possess a good character, business reputation and credit rating; must have an organization whose management culture is compatible with our management culture; and must have adequate financial resources and working capital to meet Franchisee's obligations under this Agreement. If the proposed transferee is an existing Margaritas franchisee, he must not be in default under his agreements with us and must have substantially complied with our operating standards.

**15.3.3** You and the proposed transferee must sign, at our option, either an assignment agreement and any amendments to this Agreement that we require to reflect the Transfer or our then-current standard form of franchise agreement for an initial term ending on the expiration date of the Term, which may provide for different Royalty, Advertising Obligations, local marketing requirements, duration and other rights and obligations than those provided in this Agreement. There is no limitation on the extent to which the terms of the new Franchise Agreement may differ from the terms of this Agreement. You and the proposed transferee must also sign any other agreements that we require.

**15.3.4** The proposed transferee must make arrangements to modernize and upgrade the Franchised Restaurant, at the transferee's expense, to comply with our standards and specifications for new Margaritas Restaurants.

**15.3.5** You, your Owners and the transferee must execute a general release, in a form satisfactory to us, of all claims against us and our past, present and future affiliates, officers, directors, shareholders, members, agents and employees. You and your Owners will remain liable to us for all obligations arising before the effective date of the Transfer and, at our request, you and your Owners must sign a written guarantee pursuant to which you and your Owners will remain personally liable for all obligations to us incurred before the effective date of the Transfer and for a period of 2 years following the effective date of the Transfer.

**15.3.6** The price and other proposed terms of the Transfer must not, in our reasonable business judgment, have the effect of negatively impacting the future viability of the transferred Franchised Restaurant.

**15.3.7** If the transferee is a business entity, those persons or entities with an ownership interest of 5% or more in the transferee must execute our then-current form of owner's acknowledgment.

**15.4 Transfer of Partial Ownership Interest.** If you propose to admit a new Owner who will have less than a 5% ownership interest, remove an existing Owner or change the distribution of ownership interests among the Owners shown on Exhibit A, you must give us advance notice and submit a copy of all proposed contracts and other information concerning the Transfer that we may request. You must also pay to us a transfer fee as provided in Section 15.3.1.(b). We may withhold our consent on any reasonable grounds or give our consent subject to reasonable conditions, including the conditions in Sections 15.3.1(a), 15.3.3, 15.3.5, and 13.1. Any new Owner must submit a personal application and execute our then-current form of owner's acknowledgment.

**15.5 Transfer for Convenience of Ownership.** If you are an individual or a partnership, we will consent to the Transfer of this Agreement to a business entity that is wholly owned by you that you form for the convenience of ownership, provided that: **(a)** the entity has and will have no business other than the operation of Margaritas Restaurants; **(b)** you comply with the requirements in Sections 15.3.1(a), 15.3.3, 15.3.5, and 13.1; **(c)** the Owners hold equity interests in the new entity in the same

proportion shown on Exhibit A; and **(d)** the top-level management of the Franchised Restaurant does not change. You will not be required to pay a transfer fee for a Transfer under this Section 15.5.

**15.6 Transfer upon Death or Permanent Incapacity.** If the Transfer is a transfer of ownership interests in you following the death or permanent incapacity (as reasonably determined by us) of an Owner, that person's executor, administrator or personal representative must apply to us in writing within 3 months after the death or declaration of permanent incapacity for consent to Transfer the person's interest. The Transfer will be subject to the provisions of Sections 15.3 and 15.4, as applicable. In addition, if the deceased or incapacitated person is the Operating Principal or your general manager, we will have the right (but not the obligation) to take over the operation of the Franchised Restaurant until the Transfer is completed and charge a reasonable management fee for our services. In the case of Transfer by bequest or by intestate succession, if the heirs or beneficiaries are unable to meet the conditions of Section 15.3 or 15.4, the executor may transfer the decedent's interest to another successor that we have accepted, subject to all of the terms and conditions for Transfers contained in this Agreement. If an interest is not disposed of under this Section 15.6 within 6 months after the date of death or appointment of a personal representative, we may terminate this Agreement under Section 19.1.

**15.7 Securities Offerings.** Ownership interests in the Franchisee business entity may be sold, by private or public offering, only with our prior written consent (whether or not our written consent is required under any other provision of this Section); our consent will not be unreasonably withheld. In addition to the applicable requirements of Section 15.3 or 15.4, prior to the time that any public offering or private placement of securities or partnership interests in you is made available to potential investors, you, at your expense, must deliver to us a copy of the offering documents. You, at your expense, also must deliver to us an opinion of your legal counsel (addressed to us and in a form acceptable to us) that the offering documents properly use the Proprietary Marks and accurately describe your relationship with us and/or our affiliates. The indemnification provisions of Section 23 must also include any losses or expenses incurred by us and/or our affiliates in connection with any statements made by or on behalf of you in any public offering or private placement of your securities.

**15.8 Non-Conforming Transfers.** Any purported Transfer that is not in compliance with this Section 15 is null and void and constitutes a material breach of this Agreement, for which we may terminate this Agreement without opportunity to cure. Our consent to a Transfer does not constitute a waiver of any claims that we have against the transferor, nor is it a waiver of our right to demand exact compliance with the terms of this Agreement.

**15.9 Right of First Refusal.** We have the right, exercisable within 30 days after receipt of the notice specified in Section 15.2, to send written notice to you that we intend to purchase the interest proposed to be transferred. We may assign our right of first refusal to someone else either before or after we exercise it. However, our right of first refusal will not apply with regard to Transfers under Section 15.5 or Transfers to your spouse or adult son or daughter (including Transfers to your spouse or adult son or daughter as a result of death or permanent incapacity as described in Section 15.6), provided that the transferees meet all criteria required of new franchisees.

**15.9.1** If the Transfer is proposed to be made pursuant to a sale, we or our designee, may purchase the interest proposed to be transferred on the same economic terms and conditions offered by the third-party. Closing on our purchase must occur within 60 days after the date of our notice to the seller electing to purchase the interest. If we cannot reasonably be expected to furnish the same consideration as the third-party, then we may substitute the reasonable equivalent in cash. If the parties cannot agree within 30 days on the reasonable equivalent in cash, we will designate, at our expense, an independent appraiser and the appraiser's determination will be final. Any material change

in the terms of the offer from a third party after we have elected not to purchase the seller's interest will constitute a new offer subject to the same right of first refusal as the third party's initial offer.

**15.9.2** If a Transfer is proposed to be made by gift, we will designate, at our expense, one 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 30 days after our notice to the transferor of the appraiser's determination of fair market value.

**15.9.3** If we elect not to exercise our rights under this Section, the transferor may complete the Transfer after complying with this Section 15. Closing of the Transfer must occur within 60 days of our election (or such longer period as applicable law may require); otherwise, the third-party's offer will be treated as a new offer subject to our right of first refusal. The Transfer is conditional upon our determination that the Transfer was completed on terms substantially the same as those offered to us. You must provide to us copies of all fully-executed agreements and any other information we request relating to the Transfer.

**15.10 Uncompleted Transfer.** If you pursue but do not complete a Transfer which has caused us to incur costs and expense in reviewing and documenting the proposed Transfer, you must reimburse us for these costs and expenses as we invoice to you and you will pay by EFT.

## **16 GENERAL RELEASE**

You (on behalf of yourself and your parent, subsidiaries and affiliates) and all Owners (collectively, "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, members, agents and employees, in their corporate and individual capacities, 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 Releasor now owns or holds or may at any time have owned or held, including, without limitation, 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 Releasor and us or our parent, subsidiaries or affiliates, the sale of any franchise to any Releasor, the development and operation of the Franchised Restaurant and the development and operation of all other restaurants operated by any Releasor that are franchised by us or our parent, subsidiaries or affiliates. This release does not include a release of claims arising from representations in the Franchise Disclosure Document provided to you.

## **17 COVENANTS**

**17.1 Confidential Information.** During and after the Term, you may not communicate, divulge or use for any purpose other than the development and/or operation of the Franchised Restaurant any confidential information, knowledge, trade secrets or know-how which may be communicated to you or which you may learn by virtue of this Agreement or the operation of the Franchised Restaurant. You may divulge confidential information only to your professional advisers, your employees who must have access to the information to develop or operate the Franchised Restaurant and your contractors and your landlord, provided that you obtain our prior consent. All information, knowledge and know-how relating to us, our business plans or the System are deemed confidential for purposes of this Agreement, except information that you can demonstrate came to your attention by lawful means prior to our disclosure, or that, at the time of our disclosure to you, had become a part of the public domain. You must require your employees, and any other person or entity to whom you wish to disclose any confidential information to sign agreements providing that they will maintain

the confidentiality of the disclosed information. The agreements must be in a form satisfactory to us and must identify us as a third-party beneficiary with the independent right to enforce the agreements.

**17.2 Restrictions During Term.** You acknowledge and agree that: **(a)** pursuant to this Agreement, you will have access to valuable trade secrets, specialized training and confidential information from us and our affiliates regarding the development, operation, management, purchasing, sales and marketing methods and techniques of the System; **(b)** the System and the opportunities, associations and experience established by us and acquired by you under this Agreement are of substantial and material value; **(c)** in developing the System, we and our affiliates have made and continue to make substantial investments of time, technical and commercial research, and money; **(d)** we would be unable to adequately protect the System and its trade secrets and confidential information against unauthorized use or disclosure and would be unable to adequately encourage a free exchange of ideas and information among Margaritas Restaurants if franchisees were permitted to hold interests in competitive businesses; and **(e)** restrictions on your right to hold interests in, or perform services for, competitive businesses will not hinder your activities. Accordingly, you agree that, during the Term, you will not, without our prior written consent, either directly or indirectly through any other person or entity:

**17.2.1** Divert or attempt to divert any business or customer, or potential business or customer, to any Competitive Business.

**17.2.2** Own, manage, engage in, advise, make loans to, be employed by, assist or have any interest in any restaurant business: **(a)** that sells Mexican cuisine; or **(b)** whose method of operation or trade dress is similar to that employed in the System ("Competitive Business").

**17.2.3** During the Term, there is no geographical limitation on these restrictions.

**17.3 Restrictions After Termination, Expiration or Transfer.** In light of your acknowledgments and agreements as set forth in Section 17.2, you agree as follows:

**17.3.1** For a period of 2 years following the expiration or termination of this Agreement or a Transfer to a new franchisee to which we have consented, you covenant and agree that you will not own, manage, engage in, advise, make loans to, be employed by, assist or have any interest in (a) any business that owns or offers franchises or licenses in a Competitive Business or (b) any Competitive Business that is (or is intended to be) located at or within 10 miles of the Franchised Location or within 10 miles of any other Margaritas Restaurant.

**17.3.2** For a period of 2 years following the expiration, termination or Transfer of this Agreement or a Transfer to a new franchisee to which we have consented, you further covenant and agree that you will 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 Franchised Location to any person, firm, partnership, corporation, or other entity which you know, or have reason to know, intends to operate a Competitive Business at the Franchised Location. You, by the terms of any conveyance selling, assigning, leasing or transferring your interest in the Franchised Location, must include restrictive covenants as are necessary to ensure that a Competitive Business that would violate this Section is not operated at the Franchised Location for this 2-year period, and you must take all steps necessary to ensure that these restrictive covenants become a matter of public record.

**17.3.3** If any part of these restrictions is found to be unreasonable in time or distance, each month of time or mile of distance may be deemed a separate unit so that the time or distance may be reduced by appropriate order of the court to that deemed reasonable. If, at any time during the 2-

year period following expiration or termination of this Agreement or a Transfer to a new franchisee to which we have consented, you fail to comply with your obligations under this Section, that period of noncompliance will not be credited toward your satisfaction of the 2-year obligation. Following the resolution of any dispute regarding the enforceability of this Section is resolved in our favor, the 2-year period (or such other period as may be deemed reasonable by the court) will run from the date of the resolution.

**17.4 Modification.** We will have the right, in our sole discretion, to reduce the scope of any covenant in this Section 17 effective immediately upon your receipt of written notice, and you agree that you will comply forthwith with any covenant as so modified, which will be fully enforceable notwithstanding the provisions of Section 26.

**17.5 Applicability.** This Section 17 does not prohibit you from having: **(a)** interests in any other Margaritas Franchise Agreement that remains in effect; or **(b)** ownership of less than 5% of the outstanding equity securities of any publicly-held corporation, as defined in the Securities and Exchange Act of 1934.

**17.6 Enforcement.** You agree that the existence of any claim you may have against us, whether or not arising from this Agreement, will not constitute a defense to our enforcement of this Section 17. You agree to pay all costs and expenses that we reasonably incur in enforcing this Section 17, including reasonable attorneys' fees. You acknowledge that a violation of the terms of this Section 17 would result in irreparable injury to us for which no adequate remedy at law may be available. Accordingly, you consent to the issuance of an injunction prohibiting any conduct in violation of the terms of this Section 17. Such injunctive relief will be in addition to any other remedies that we may have.

**17.7 Survival.** The terms of this Section 17 will survive the termination, expiration, or any Transfer of this Agreement. The parties agree this Section 17 will be construed as independent of any other provision of this Agreement.

## **18 STEP-IN RIGHTS**

**18.1 Cause for Step-In.** If a default under Section 19 of this Agreement occurs and remains uncured, or is not subject to cure, or if your actions jeopardize the integrity of Our Marks or Our System or you cease to operate the Franchised Restaurant, then you authorize us or our designee to operate the Franchised Restaurant for as long as in our reasonable judgment, we believe that it is necessary or practical. You acknowledge that this right to step-in is necessary to preserve the value and integrity of the System. Even if we exercise this right to step-in, you agree that we do not lose or waive a right to exercise any other rights or remedies which we may have legally under this Agreement. Among the reasons we may act under these step-in rights are:

**18.1.1** We reasonably determine that you are unable to operate the Franchised Business because you are absent or incapacitated because of illness, accident, injury or death; or

**18.1.2** You have not paid your monetary obligations to us or others when they are due;  
or

**18.1.3** You have not removed non-consensual liens or encumbrances which have been placed against Your Franchised Restaurant; or

**18.1.4** We determine that material operational problems require that we operate your Franchised Restaurant for a period of time; or

**18.1.5** You have ceased operations for a period of 2 consecutive days without our written consent.

**18.2 Duties of the Parties.** During a step-in period, we will maintain in a separate account, all Gross Receipts of the Franchised Restaurant. From that account we will pay all expenses of the Franchised Restaurant, which will include the Royalty Fee, all advertising contributions or payments, and reasonable compensation and expenses for our representatives. If we exercise these step-in rights, then you agree to hold us and our representatives harmless for all actions or omissions which occur during the course of the temporary operation. You agree to pay us our reasonable attorneys' fees and costs which might arise from the exercise of these step-in rights. Nothing in this Section will prevent us from exercising any other rights which we may have under this Agreement, including the right to terminate the Agreement.

## **19 DEFAULT AND TERMINATION**

**19.1 Termination by Us Without a Cure Period.** In addition to the grounds for termination stated elsewhere in this Agreement, we may terminate this Agreement by written notice to you, without giving you an opportunity to cure, upon the occurrence of any of the following events:

**19.1.1** You (or the Operating Principal), the Franchised Restaurant's general manager, two bartenders, and/or any managerial personnel that we designate under Section 6.1.1 fail to complete the IFOP training.

**19.1.2** You fail to open the Franchised Restaurant for business by the Opening Date. We may, in our sole discretion, extend this period to address unforeseen construction delays that are not within your control.

**19.1.3** You are insolvent or unable to pay your creditors (including us); file a petition in bankruptcy, an arrangement for the benefit of creditors or a petition for reorganization; there is filed against you a petition in bankruptcy, an arrangement for the benefit of creditors or petition for reorganization that is not dismissed within 60 days of the filing; you make an assignment for the benefit of creditors; or a receiver or trustee is appointed for you and not dismissed within 60 days of the appointment.

**19.1.4** Execution is levied against your business or property; suit to foreclose any lien or mortgage against the Franchised Location or equipment of the Franchised Restaurant is instituted against you and is not dismissed within 60 days; or the real or personal property of the Franchised Restaurant must be sold after levy thereupon by any sheriff, marshal or constable.

**19.1.5** There is a material breach of any obligation under Section 17.

**19.1.6** Any Transfer that requires our prior written consent occurs without your having obtained that prior written consent.

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

**19.1.8** 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.

**19.1.9** You or any Owner, officer or director is convicted of, or pleads no contest to, a crime that we reasonably believe is likely to harm the reputation of the System or our goodwill.

**19.1.10** You interfere with our relations with third parties or our ability to license the System and the Proprietary Marks or any other system or marks to a third party.

**19.1.11** Any Transfer occurs that does not comply with Section 15.

**19.1.12** You remain in default beyond the applicable cure period under: **(a)** any agreement with us or our affiliates; **(b)** any real estate lease, equipment lease or financing instrument relating to the Franchised Restaurant; or **(c)** any agreement with any vendor or supplier to the Franchised Restaurant.

**19.1.13** You refuse to permit, or try to hinder, an examination or audit of your books and records or inspection of the Franchised Restaurant or Franchised Location as required by this Agreement.

**19.1.14** You received 2 or more notices of default of this Agreement within any 12 month period, whether or not the defaults are similar and whether or not they are cured.

**19.1.15** Any condition exists with respect to the Franchised Restaurant that, in our reasonable judgment, seriously jeopardizes public health or safety.

**19.1.16** You lose the right to operate at the Franchised Location and fail to secure our acceptance of another site within the time permitted by Section 2.1.

**19.1.17** During any 12-month period, you fail to operate the Franchised Restaurant for 3 or more consecutive days, or 5 total days, that you were required to operate the Franchised Restaurant, unless we determine, in our sole discretion, that such failure was beyond your control.

**19.2 Termination by Us Following Expiration of Cure Period.** We may terminate this Agreement upon 15 days' written notice for any default not covered under Section 19.1. The notice will state the nature of your default. You may avoid termination by curing the default to our satisfaction within the 15-day period (or such longer period as applicable law may require). If the default is not cured within the specified time, this Agreement will terminate without further notice, effective immediately upon the expiration of the specified time period. Any failure to comply with this Agreement, as amended or reasonably supplemented by the Manual or otherwise in writing, constitutes a default, including, but not limited to, the following:

**19.2.1** You fail, refuse or neglect to pay when due any monies owing to us, our affiliates, your suppliers and any lender that has provided financing to you under this Agreement or any other agreement with us.

**19.2.2** You fail, refuse or neglect to submit to us the financial and other reports and information required under this Agreement.

**19.2.3** You fail to maintain or observe any of the mandatory standards or procedures prescribed by us in this Agreement, the Manual or otherwise in writing.

**19.2.4** You, by act or omission, suffer a continued violation of any law, ordinance, rule or regulation of a governmental agency, including the failure to maintain or procure any required licenses, permits, or certifications, in the absence of a good faith dispute over its application or legality and without promptly resorting to an appropriate administrative or judicial forum for relief.

**19.2.5** You misuse or make any unauthorized use of the Proprietary Marks or otherwise materially impair our goodwill or rights in the Proprietary Marks.

**19.2.6** You employ a person at the Franchised Restaurant who does not meet all state and local requirements for certification or pre-requisites for employment in the United States.

**19.3 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 Agreement, this Agreement will be deemed amended to conform to the minimum notice or cure period required by the applicable law or regulation.

**19.4 Cross Default.** Any default by you of any other agreement between us and you shall be deemed a default under this Agreement, and any default by you under this Agreement shall be deemed a default under any and all other agreements between us and you. If the nature of such default under any other agreement would have permitted us to terminate this Agreement had said default occurred hereunder, we shall have the right to terminate all of the other agreements between us and you in the same manner as provided herein for termination of this Agreement.

**19.5 VOLUNTARY TERMINATION. YOU ARE DEEMED TO HAVE VOLUNTARILY TERMINATED THIS AGREEMENT IF YOU ABANDON, VACATE, DESERT, SURRENDER, OR OTHERWISE CEASE OPERATION OF THE FRANCHISED RESTAURANT FOR A PERIOD OF TWO (2) CONSECUTIVE DAYS WITHOUT OUR EXPRESS WRITTEN CONSENT, UNLESS AND ONLY TO THE EXTENT THAT YOU ARE PRECLUDED FROM DOING SO BY DAMAGE TO THE FRANCHISED RESTAURANT DUE TO WAR, ACT OF GOD, CIVIL DISTURBANCE, NATURAL DISASTER OR OTHER EVENTS THAT WERE BEYOND YOUR REASONABLE CONTROL. THE TERMINATION WILL AUTOMATICALLY BE EFFECTIVE WITHOUT NOTICE TO YOU AT THE END OF THE SECOND CONSECUTIVE DAY OF NO OPERATIONS WITHOUT OUR CONSENT.**

## **20 OBLIGATIONS ON TERMINATION OR EXPIRATION**

**20.1 Your Obligations.** Upon termination or expiration of this Agreement for any reason, unless we direct you otherwise:

**20.1.1** All rights and licenses granted to you under this Agreement (including, without limitation, rights to use the System, the Manual and the Proprietary Marks) shall immediately terminate and any right, title, and interest claimed by you to any such matters shall immediately revert to us without further notice or documentation.

**20.1.2** You shall immediately cease to operate the Franchised Restaurant and shall not thereafter, directly or indirectly, represent to the public or hold yourself out as a present or former franchisee of the System.

**20.1.3** You shall immediately and permanently cease to use, in any manner whatsoever, the System, the Proprietary Marks and the Manual.

**20.1.4** You must promptly pay all sums owing to us, our affiliates and your suppliers. Such sums include, but are not limited to, the Royalty, Advertising Obligations or other fees, damages, expenses and attorneys' fees incurred as a result of your default.

**20.1.5** You must cease to use in advertising or in any manner the confidential methods, procedures and techniques associated with the System, including all proprietary recipes, ingredients, and processes.

**20.1.6** You and all persons and entities subject to the restrictions contained in Section 17 shall continue to abide by those restrictions and shall not, directly or indirectly, take any action that violates those restrictions.

**20.1.7** Unless we direct you to maintain your existing signage while we determine if we will exercise our option to purchase under Section 21, you must immediately cease to use, by advertising or in any other manner, the name "Tio Juan's Margaritas Mexican Restaurant", all other Proprietary Marks and all other distinctive forms, slogans, signs, symbols, web sites, domain names, email addresses, and devices associated with the System. If you subsequently begin to operate another business, you must not use any reproduction, counterfeit, copy, or colorable imitation of the Proprietary Marks in connection with that business that is likely to cause confusion, mistake or deception, or which is likely to dilute our exclusive rights in and to the Proprietary Marks, nor any trade dress or designation of origin or description or representation that falsely suggests or represents an association or connection with us. Within 15 days, you must promptly take such action as may be necessary to cancel any assumed name registration or equivalent registration, and any domain name registration that contains the name "Tio Juan's Margaritas Mexican Restaurant" or any other Proprietary Marks.

**20.1.8** Unless we direct you to maintain the existing appearance of the Franchised Location while we determine if we will exercise our option under Section 21, you must make modifications or alterations to the Franchised Location and the Franchised Restaurant immediately upon termination or expiration of this Agreement as necessary to prevent the operation of any business in violation of this Section 20 and any specific additional changes we reasonably request for that purpose, including, but not limited to, removal of all distinct décor, furniture, colors and tiles. Upon our request, you must return to us, at our cost, any signage that we specify. If you fail to comply with this Section within 30 days following termination or expiration of this Agreement, we have the right to enter the premises, without being guilty of trespass or any other tort, for the purpose of removing signs and any other articles that display the Proprietary Marks or Trade Dress. You agree to reimburse us on demand for our expenses in making such changes.

**20.1.9** You must immediately deliver to us the Manual and all training materials, marketing materials, records, files, instructions, and correspondence in your possession or control that contain confidential information (as described in Section 17.1). You also must deliver to us all customer information that you have compiled and uninstall any software that we have provided.

**20.2 Evidence of Compliance.** You shall furnish to us, within 30 days after the effective date of termination or expiration, evidence (certified to be true, correct and complete, by an officer or Owner) satisfactory to us of your compliance with Section 20.1.

**20.3 Other Business Operations.** You shall not, except with respect to a Margaritas Restaurant franchised by us or our affiliates that is then open and operating pursuant to an effective Franchise Agreement: **(a)** operate or do business under any name or in any manner that might tend to give the public the impression that you are connected in any way with us or our affiliates or have any right to use the System or the Proprietary Marks; **(b)** make, use or avail yourself of any of the materials or information furnished or disclosed by us or our affiliates under this Agreement or disclose or reveal

any such materials or information or any portion thereof to anyone else; or **(c)** assist anyone not licensed by us or our affiliates to construct or equip a foodservice outlet substantially similar to a Margaritas Restaurant.

**20.4 Listings.** We will have the option, exercisable by written notice within 30 days after the termination or expiration of this Agreement, to take an assignment of all telephone numbers, ~~facsimile numbers~~, domain names, or other numbers, names and telephone directory listings (collectively, "Listings") associated with any Proprietary Mark or the Franchised Restaurant, and you must notify the telephone company, all telephone directory publishers, and all domain name registries and Internet service providers of the termination or expiration of your right to use any Listing associated with the Franchised Restaurant, and authorize and instruct their transfer to us or to a third party, at our direction and/or to instruct the telephone company, domain name registries and Internet service providers to forward all calls, e-mails and electronic communications made to your names, numbers or addresses to names, numbers or addresses we specify. You are not entitled to any compensation from us if we exercise this option.

## **21 OPTION TO PURCHASE**

**21.1 Scope.** Upon the expiration or termination of this Agreement for any reason, we shall give written notice to you, within 30 days after the effective date of termination or expiration, if we intend to exercise our option to purchase from you some or all of the assets used in the Franchised Restaurant ("Assets"). As used in this Section 21, "Assets" means, without limitation, leasehold improvements, equipment, vehicles, furnishings, fixtures, signs and inventory (non-perishable products, materials and supplies) used in the Franchised Restaurant, and the real estate fee simple or the lease or sublease for the Franchised Location. We shall be entitled to the entry of interlocutory and permanent orders of specific performance by a court of competent jurisdiction if you fail or refuse to timely meet your obligations under this Section 21. We shall have the unrestricted right to assign this option to purchase the Assets. We or our assignee shall be entitled to all customary representations and warranties that the Assets are free and clear (or, if not, accurate and complete disclosure) as to: **(a)** ownership, condition and title; **(b)** liens and encumbrances; **(c)** environmental and hazardous substances; and **(d)** validity of contracts and liabilities inuring to us or affecting the Assets, whether contingent or otherwise.

**21.2 Purchase Price.** The purchase price for the Assets ("Purchase Price") shall be their fair market value, (or, for leased assets, the fair market value of Franchisee's lease) determined as of the effective date of purchase in a manner that accounts for reasonable depreciation and condition of the Assets; provided, however, that the Purchase Price shall take into account the termination of this Agreement. Further, the Purchase Price for the Assets shall not contain any factor or increment for any trademark, service mark or other commercial symbol used in connection with the operation of the Franchised Restaurant nor any goodwill or "going concern" value for the Franchised Restaurant. We may exclude from the Assets purchased in accordance with this Section any equipment, vehicles, furnishings, fixtures, signs, and inventory that are not accepted as meeting then-current standards for a Margaritas Restaurant or for which you cannot deliver a Bill of Sale in a form satisfactory to us.

**21.3 Certified Appraisers.** If we and you are unable to agree on the fair market value of the Assets within 30 days after the date you received our notice expressing our intent to exercise our option to purchase the Assets, the fair market value shall be determined by two professionally certified appraisers, one selected by you and one selected by us. If the higher appraisal is more than 10% greater than the other appraisal, the two appraisers shall select a third professionally certified appraiser who also shall appraise the fair market value of the Assets. The average value set by the appraisers (whether two or three appraisers as the case may be) shall be conclusive and shall be the Purchase Price.

**21.4 Access to Franchised Restaurant.** The appraisers shall be given full access to the Franchised Restaurant, the Franchised Location and your books and records during customary business hours to conduct the appraisal and shall value the leasehold improvements, equipment, furnishings, fixtures, signs and inventory in accordance with the standards of this Section 21. The appraisers' fees and costs shall be borne equally by us and you.

**21.5 Exercise of Option.** Within 10 days after the Purchase Price has been determined, we may exercise our option to purchase the Assets by so notifying you in writing ("Purchase Notice"). The Purchase Price shall be paid in cash or cash equivalents at the closing of the purchase ("Closing"), which shall take place no later than 60 days after the date of the Purchase Notice. From the date of the Purchase Notice until Closing:

**21.5.1** You shall operate the Franchised Restaurant and maintain the Assets in the usual and ordinary course of business and maintain in full force all insurance policies required under this Agreement; and

**21.5.2** We shall have the right to appoint a manager, at our expense, to control the day-to-day operations of the Franchised Restaurant and you shall cooperate, and instruct your employees to cooperate, with the manager appointed by us. Alternatively, we may require you to close the Franchised Restaurant during such time period without removing any Assets from the Franchised Restaurant.

**21.6 Due Diligence.** For a period of 30 days after the date of the Purchase Notice ("Due Diligence Period"), we shall have the right to conduct such investigations as we deem necessary and appropriate to determine: **(a)** the ownership, condition and title of the Assets; **(b)** liens and encumbrances on the Assets; **(c)** environmental and hazardous substances at or upon the Franchised Location; and **(d)** the validity of contracts and liabilities inuring to us or affecting the Assets, whether contingent or otherwise. You will afford us and our representatives access to the Franchised Restaurant and the Franchised Location at all reasonable times for the purpose of conducting inspections of the Assets; provided that such access does not unreasonably interfere with your operations of the Franchised Restaurant.

**21.7 Our Rights During Due Diligence Period.** During the Due Diligence Period, at our sole option and expense, we may: **(a)** cause the title to the Assets that consist of real estate interests ("Real Estate Assets") to be examined by a nationally recognized title company and conduct lien searches as to the other Assets; **(b)** procure "AS BUILT" surveys of the Real Estate Assets; **(c)** procure environmental assessments and testing with respect to the Real Estate Assets; and/or **(d)** inspect the Assets that consist of leasehold improvements, equipment, vehicles, furnishings, fixtures, signs and inventory ("Fixed Assets") to determine if the Fixed Assets are in satisfactory working condition. Prior to the end of the Due Diligence Period, we shall notify you in writing of any objections that we have to any finding disclosed in any title to lien search, survey, environmental assessment or inspection. If you cannot or elect not to correct any such title defect, environmental objection or defect in the working condition of the Fixed Assets, we will have the option to either accept the condition of the Assets as they exist or rescind our option to purchase on or before the Closing.

**21.8 Compliance With Law.** Prior to the Closing, we and you shall comply with all applicable legal requirements, including the bulk sales provisions of the Uniform Commercial Code of the state in which the Franchised Restaurant is located and the bulk sales provisions of any applicable tax laws and regulations. You shall, prior to or simultaneously with the Closing, pay all tax liabilities incurred in connection with the operation of the Franchised Restaurant prior to Closing. We shall have the right to set off against and reduce the Purchase Price by any and all amounts owed by you to us, and the amount of any encumbrances or liens against the Assets or any obligations assumed by us.

## **21.9 The Franchised Location.**

**21.9.1** If the Franchised Location is leased, we agree to use reasonable efforts to effect a termination of the existing lease for the Franchised Location. If the lease for the Franchised Location is assigned to us or we sublease the Franchised Location from you, we will indemnify and hold you harmless from any ongoing liability under the lease from the date we assume possession of the Franchised Location, and you will indemnify and hold us harmless from any liability under the lease prior to and including that date.

**21.9.2** If you own the Franchised Location, we, at our option, will either purchase the fee simple interest or, upon purchase of the other Assets, enter into a standard lease with you on terms comparable to those for which similar commercial properties in the area are then being leased. The initial term of this lease with you shall be at least 10 years with 2 options to renew of 5 years each and the rent shall be the fair market rental value of the Franchised Location. If we and you cannot agree on the fair market rental value of the Franchised Location, then appraisers (selected in the manner described in Section 21.3) shall determine the rental value.

**21.10 Your Obligations at Closing.** At the Closing, you shall deliver instruments transferring to us or our assignee: **(a)** good and merchantable title to the Assets purchased, free and clear of all liens and encumbrances (other than liens and security interests acceptable to us or our assignee), with all sales and other transfer taxes paid by you; **(b)** all licenses and permits for the Franchised Restaurant that may be assigned or transferred, with appropriate consents, if required; and **(c)** the lease or sublease for the Franchised Location, with appropriate consents, if required. If you cannot deliver clear title to all of the purchased Assets as indicated in this Section, or if there are other unresolved issues, the Closing shall be accomplished through an escrow.

## **22 RELATIONSHIP OF THE PARTIES**

We and you agree and acknowledge that each of us is an independent business entity or person; that our only relationship is as franchisor and franchisee as specified in this Agreement; that this Agreement does not create a fiduciary or other special relationship or make you or us an agent, legal representative, joint venturer, partner, employee or servant of each other for any purpose. Neither party is liable or responsible for the other's debts or obligations and neither party shall be obligated for any damages to any person or property directly or indirectly arising out of the operation of the other party's business. We and you agree that neither of us will hold ourselves out to be the agent, employer, partner or co-venturer of the other, and that neither of us has the authority to create or assume in the other's name or on their behalf, any obligation, express or implied, or to act or purport to act as agent or representative for any purpose whatsoever and cannot bind or incur liability on behalf of the other. You are not authorized to make any contract, agreement, warranty or representation on our behalf, or to create any obligation, express or implied, on our behalf. During the Term, you agree to hold yourself out to the public as an independent contractor operating the Franchised Restaurant under license from us, and you agree to exhibit a notice to that effect (the location and content of which we reserve the right to specify) in a conspicuous place at the Franchised Restaurant.

## **23 INDEMNIFICATION**

You agree to defend, indemnify, and hold harmless us and our past, present and future affiliates, officers, directors, shareholders, members, agents, attorneys, consultants, and employees against any claims, losses, costs, expenses, liabilities and damages (collectively, "Claims") arising directly or indirectly from, as a result of, or in connection with any training we provide or the Franchised Restaurant or any dispute between or among you and/or any of your partners, shareholders, or members in which we are named, as well as the costs of defending against such Claims (including, but not limited to,

reasonable attorneys' fees, costs of investigation, settlement costs and interest). As between us and you, you are solely responsible for the safety and well-being of your employees and the customers of the Franchised Restaurant. If we are deemed a joint employer for any of your employees or contractors and incur any liability as a joint employer, you must indemnify us and make us whole. With respect to any threatened or actual litigation, proceeding, or dispute that could directly or indirectly affect us or any of the other indemnitees under this Section, if you do not assume the active defense of the matter within a reasonable time, we will have the right, but not the obligation, to: **(a)** choose counsel; **(b)** direct and control the handling of the matter; and **(c)** settle any claim against the indemnitees. This Section will survive the expiration or termination of this Agreement, and applies to Claims even if they exceed the limits of your insurance coverage.

## 24 CONSENTS AND WAIVERS

**24.1 Consent.** Whenever our prior written approval, acceptance or consent is required under this Agreement, you agree to make a timely written request to us for such consent. Our approval, acceptance or consent must be in writing and signed by an authorized officer to be effective.

**24.2 No Warranties.** We make no warranties or guarantees upon which you may rely by providing any waiver, approval, consent or suggestion to you in connection with this Agreement and assume no liability or obligation to you therefor, or by reason of any neglect, delay, or denial of any request therefor. We will not, by virtue of any waivers, approvals, consents, advice or services provided to you, assume responsibility or liability to you or to any third parties to which we would not otherwise be subject.

**24.3 Waivers.** No delay or failure to exercise any right under this Agreement or to insist upon your strict compliance with any obligation or condition, and no custom or practice that differs from the terms of this Agreement, will constitute a waiver of our right to exercise the contractual right or demand your strict compliance with the terms of this Agreement. Our waiver of any particular default does not affect or impair our rights with respect to any subsequent default you may commit. Our waiver of a default by another franchisee does not affect or impair our right to demand your strict compliance with the terms of this Agreement. Our acceptance of any payments due from you does not waive any prior defaults.

## 25 GRANT OF SECURITY INTEREST

As security for the payment of all amounts from time to time owing by you to us or our affiliates under this Agreement and all other agreements, and performance of all obligations to be performed by you, you hereby grant to us a security interest in all of your assets, including all equipment, furniture, fixtures, and building and road signs used in the operation of the Franchised Restaurant, as well as all proceeds of the foregoing (the "**Collateral**"). You warrant and represent that the security interest granted hereby is prior to all other security interests in the Collateral except bona fide purchase money security interests, or security interests held by financial institutions, if any, to which we have provided a written subordination. You agree not to remove the Collateral, or any portion thereof, from the Premises without our prior written consent. Upon the occurrence of any event entitling us to terminate this Agreement or any other agreement between the parties, we shall have all the rights and remedies of a secured party under the Uniform Commercial Code of the State in which the Franchised Restaurant is located, including the right to take possession of the Collateral. You authorize us to file one or more financing statements to perfect our security interest in and to the Collateral and agree to execute and deliver to us financing statements or such other documents as we reasonably deem necessary to perfect our interest in the Collateral within 10 days of your receipt of such documents from us.

## 26 NOTICES

Notices related to this Agreement will be deemed provided upon receipt (or first rejection) and may be given by any of the following delivery methods: **(a)** certified or registered mail; **(b)** U.S. Priority Mail or national commercial delivery service (e.g., UPS, Federal Express, DHL); ~~or **(c)** facsimile (if the sender receives machine confirmation of successful transmission); or **(d)** electronic mail.~~ Notices to you and us must be sent to the addresses on the first page of this Agreement. Either party can change its notice address by informing the other party in writing.

## 27 ENTIRE AGREEMENT

Each element of this Agreement is essential and material. This Agreement, the Manual, the attachments to the Manual, the documents referred to in this Agreement and the attachments to this Agreement constitute the entire agreement between the parties with respect to the Franchised Restaurant at the Franchised Location and supersede all prior negotiations, representations, correspondence and agreements concerning the same subject matter. Except for the Franchise Disclosure Document and the Area Development Agreement pursuant to which this Agreement was executed (if applicable), 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. Except 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 Margaritas Franchise Disclosure Document.

## 28 SEVERABILITY AND CONSTRUCTION

**28.1 Severability.** Each provision of this Agreement is severable from the others. If, for any reason, any provision is determined by a court to be invalid, the invalidity will not impair the operation of the remaining provisions of this Agreement. The latter will continue to be given full force and effect and bind us and you; the invalid provision(s) will be deemed not to be a part of this Agreement.

**28.2 Survival.** Each provision of this Agreement that, expressly, or by reasonable implication, is to be performed, in whole or in part, after the expiration, termination or Transfer of this Agreement will survive expiration, termination or Transfer.

**28.3 Interpretation.** Except as expressly otherwise provided, nothing in this Agreement is intended, or will be deemed, to confer any rights or remedies upon any person or legal entity other than you and us.

**28.4 Our Discretion.** Whenever we have a right and/or the 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 and specifically provided in this Agreement, we may make such decision or exercise our right and/or discretion on the basis of our judgment of what is in our best interests. Our judgment of what is in the best interests of the System, at the time our decision is made or our right or discretion is exercised, can be made without regard to whether: **(a)** other reasonable alternative decisions or actions, or even arguably preferable alternative decisions or actions, could have been made by us; **(b)** our decision or the action taken promotes our financial or other individual interest; **(c)** our decision or the action taken applies differently to you and one or more other franchisees or our company-owned or affiliate-owned operations; or **(d)** our decision or the action taken is adverse to your interests. We will have no liability to you for any such decision or action. We and you intend that the exercise of our right or discretion

will not be subject to limitation or review. If applicable law implies a covenant of good faith and fair dealing in this Agreement, we and you agree that such covenant will not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Agreement and that this Agreement grants us the right to make decisions, take actions and/or refrain from taking actions not inconsistent with your rights and obligations under this Agreement.

## **29 DISPUTE RESOLUTION**

**29.1 Choice of Law.** This Agreement and the relationship between the parties is governed by and will be construed in accordance with the laws of the State of New Hampshire, except that Section 17 will be governed by the laws of the state in which the Franchised Restaurant is located. The parties agree, however, if the Franchised Restaurant is not located in New Hampshire and the Franchisee is not a resident of, or domiciled in, New Hampshire, the provisions of any New Hampshire law regulating the offer or sale of franchises or the franchise relationship applicable to this Agreement and the regulations promulgated thereunder shall not apply to this Agreement or the Franchise relationship created hereby.

**29.2 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 having jurisdiction where our principal offices are located at the time suit is filed. We may file suit in the federal or state court located in the jurisdiction where our principal offices are located at the time suit is filed or in the jurisdiction where you reside or do business or where the Franchised Restaurant is or was located or where the claim arose. You consent to the personal jurisdiction of those courts over you and to venue in those courts.

**29.3 Limitation of Actions.** Except for payments owed by one party to the other, and unless prohibited by applicable law, any legal action or proceeding (including the offer and sale of a franchise to Franchisee) 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 must be brought or instituted within a period of 2 years after initial occurrence of any act or omission that is the basis of the legal action or proceeding, whenever discovered. The parties agree that any proceeding will be conducted on an individual, not a class-wide, basis and that a proceeding between you and us may not be consolidated with another proceeding between us and any other person or entity. No previous course of dealing shall be admissible to explain, modify, or contradict the Terms of this Agreement. No implied covenant of good faith and fair dealing shall be used to alter the express Terms of this Agreement.

**29.4 MUTUAL WAIVER OF JURY TRIAL. EACH OF US IRREVOCABLY WAIVES TRIAL BY JURY IN ANY LITIGATION.**

**29.5 Mutual Waiver of Punitive Damages.** Each of us waives any right to or claim of punitive, exemplary, multiple or consequential damages against the other in litigation and agrees to be limited to the recovery of actual damages sustained.

**29.6 Remedies Not Exclusive.** Except as provided in Sections 29.1 through 29.5, no right or remedy that the parties have under this Agreement is exclusive of any other right or remedy under this Agreement or under applicable law.

**29.7 Reimbursement of Costs and Expenses.** If either party brings an action to enforce this Agreement in a judicial proceeding, the party prevailing in that proceeding will be entitled to reimbursement of costs and expenses, including, but not limited to, 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, 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 must 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.

**29.8 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.

## **30 MISCELLANEOUS**

**30.1 Gender and Number.** All references to gender and number will be construed to include such other gender and number as the context may require.

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

**30.3 Counterparts.** This Agreement may be executed in counterparts, and each copy so executed and delivered will be deemed an original.

**30.4 Time.** Time is of the essence of this Agreement for each provision in which time is a factor.

**30.5 Injunctive Relief.** You recognize that your failure to comply with the terms of this Agreement, including, but not limited to, the failure to fully comply 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 will be entitled to declaratory and injunctive relief (both preliminary and permanent) restraining that breach and/or to specific performance without showing or proving actual damages and without posting any bond or security.

**30.6 Terrorist Acts.** You acknowledge that under applicable U.S. law, including, without limitation, Executive Order 13224, signed on September 23, 2001 ("Order"), we are prohibited from engaging in any transaction with any person engaged in, or with a person aiding any person engaged in, acts of terrorism, as defined in the Order. Accordingly, you represent and warrant to us that, as of the date of this Agreement, neither you nor any person holding any ownership interest in you, controlled by you, or under common control with you is designated under the Order as a person with whom business may not be transacted by us, and that you: **(a)** do not, and hereafter will not, engage in any terrorist activity; **(b)** are not affiliated with and do not support any individual or entity engaged in, contemplating, or supporting terrorist activity; and **(c)** are not acquiring the rights granted under this Agreement with the intent to generate funds to channel to any individual or entity engaged in, contemplating, or supporting terrorist activity, or to otherwise support or further any terrorist activity.

**30.7** This Agreement has been negotiated in the English language and the rules of construction and definitions of the English language will be applied in interpreting this Agreement. You represent that you and your Operating Principal are fluent in English and have consulted with legal counsel to the extent necessary to understand the provisions of this Agreement. The English language version of this Agreement will be the official and binding Agreement between the Parties. All notices and communications required or permitted under this Agreement, including without limitation all meetings, mediations, arbitration and litigation, will be conducted and written in the English language.

In addition, we will provide all services and materials under this Agreement, including without limitations the Manuals and all training programs, seminars, conventions, programs and meetings, in the English language and will not have a duty to provide any translation or interpreter services for any of your personnel. You will be solely responsible for the cost of any related translation or interpreter services.

**30.8** Whenever we reserve or are deemed to have reserved discretion in a particular area or where we agree or are deemed to be required to exercise our rights reasonably or in good faith, we will satisfy our obligations whenever we exercise Reasonable Business Judgment in making our decision or exercising our rights. Our decisions or actions will be deemed to be the result of Reasonable Business Judgment, even if other reasonable or even arguably preferable alternatives are available, if our decision or action is intended, in whole or significant part, to promote or benefit the System generally even if the decision or action also promotes our financial or other individual interest. Examples of items that will promote or benefit the System include without limitation enhancing the value of the Marks, improving customer service and satisfaction, improving service or product quality, improving uniformity, enhancing or encouraging modernization and improving the competitive position of the System. We are not required to consider any of your or any other franchisee's particular economic or other circumstances when exercising our Reasonable Business Judgment. Decisions we make using our Reasonable Business Judgment will not affect all franchisees equally, and some may be benefited while others are not. Neither you nor any third party (including without limitation an arbitrator or a court of competent jurisdiction), shall substitute its judgment for our Reasonable Business Judgment.

## **31 ACKNOWLEDGEMENTS**

**31.1** You acknowledge that you understand that any training, support, guidance or tools we provide to you as part of the franchise are for the purpose of protecting the Margaritas Brand and Proprietary Marks and to assist you in the operation of your Franchised Restaurant and not for the purpose of controlling or in any way intended to exercise or exert control over your decisions or day-to-day operations of your Franchised Restaurant, including your sole responsibility for the hiring, wages and other compensation (including benefits), training, supervision and termination of your employees and all other employment and employee related matters.

**31.2** 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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

[signatures on following page]

**IN WITNESS WHEREOF**, the parties have executed this Agreement by their duly authorized representatives.

**ATTEST:**

**MARGARITAS FRANCHISING CORP.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST/WITNESS:**

**FRANCHISEE**

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**FRANCHISE INFORMATION**

1. **Franchised Location:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. **Ownership:** If you are a business entity, the following persons constitute all of the owners of a legal and/or beneficial interest in you of more than 5%:

Name	Address	Ownership Interest	Office Held/Position

2.1 **Ownership:** If any Owner named above is a business entity, the following persons constitute all of the owners of a legal and/or beneficial interest in that entity of more than 5%:

Name	Address	Ownership Interest	Office Held/Position

3. **Management:**

The following persons constitute all of your officers, directors or other management personnel:

Name	Position

**EXHIBIT B**

**PRE-AUTHORIZED BANK TRANSFER  
(DIRECT DEBITS)**

Name of Person or Legal Entity: \_\_\_\_\_

ID Number: \_\_\_\_\_

Account Name: \_\_\_\_\_

Address: \_\_\_\_\_

The undersigned depositor ("Depositor") hereby authorizes Margaritas Franchising Corp. ("Margaritas") to initiate debit entries and/or credit correction entries to Depositor's checking and/or savings account(s) indicated below and the depository designated below ("Depository") and to debit such account pursuant to Margaritas' instructions for any and all amounts due to Margaritas. The Depositor understands that all amounts debited from the account below will be credited to Margaritas' account.

IN LIEU OF COMPLETING THE INFORMATION REQUIRED ON THE FOLLOWING FOUR LINES, FRANCHISEE MAY ATTACH A CANCELLED OR VOIDED CHECK HERETO.

\_\_\_\_\_  
Depository

\_\_\_\_\_  
Branch

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Telephone Number of Bank

\_\_\_\_\_  
Contact Person at Bank

\_\_\_\_\_  
Bank Transit/ABA Number

\_\_\_\_\_  
Account Number

\_\_\_\_\_

This authority is to remain in full force and effect until Depository has received joint written notification from Margaritas and Depositor of Depositor's termination of such authority in such time and in such manner as to afford Depository a reasonable opportunity to act on it. Notwithstanding the foregoing, Depository shall provide Margaritas and Depositor with 30 days' prior written notice of the termination of this authority. If an erroneous debit entry is initiated to Depositor's account, Depositor shall have the right to have the amount of such entry credited to such account by Depository, if within 15 calendar days following the date on which Depository sent to Depositor a statement of account or a written notice pertaining to such entry or 45 days after posting, whichever occurs first, Depositor shall have sent to Depository a written notice identifying such entry, stating that such entry was in error and requesting Depository to credit the amount thereof to such account. These rights are in addition to any rights Depositor may have under federal and state banking laws.

All costs and expenses, including any resulting from the dishonor by Depositor's bank of any electronic funds transfer, shall be Depositor's sole responsibility. This authorization is irrevocable and shall remain in effect until the termination or expiration of the underlying Franchise Agreement with Margaritas. If Depositor does not have enough money in its account to cover the transfer or if Depositor's Financial Institution for any other reason refuses to honor a transfer, Depositor will separately pay for the charges Depositor owes under Depositor's Franchise Agreement with Margaritas.

\_\_\_\_\_  
Depositor  
  
By: \_\_\_\_\_  
  
Title: \_\_\_\_\_  
  
Date: \_\_\_\_\_

\_\_\_\_\_  
Depository  
  
By: \_\_\_\_\_  
  
Title: \_\_\_\_\_  
  
Date: \_\_\_\_\_

## EXHIBIT C

### OWNERS ACKNOWLEDGMENT

In consideration of, and as an inducement to, the execution of the Margaritas Franchise Agreement dated as of \_\_\_\_\_ (“Agreement”) by Margaritas Franchising Corp. (“MFC”), entered into with \_\_\_\_\_ (“Franchisee”), the undersigned, each of whom is an officer, director, or a direct or indirect holder of a legal or beneficial interest in Franchisee of 5% or more (“5% Owner”), hereby personally and unconditionally: **(1)** agree personally to be bound by the confidentiality and non-competition provisions in the Agreement, including, without limitation, the provisions of Section 17; and **(2)** agree personally to be liable for the breach of the confidentiality and non-competition provisions in the Agreement, including, without limitation, Section 17.

If any of the undersigned ceases to be a 5% Owner, an officer or director of Franchisee, or to own any interest in Franchisee prior to termination or expiration of the Agreement, that person agrees that his obligations under this Acknowledgment shall continue to remain in force and effect unless MFC in its sole discretion, in writing, releases that person from this Acknowledgment. Notwithstanding the provisions of the previous sentence, unless prohibited by applicable law, the obligations contained in Section 17.2 shall remain in force and effect for a period of 2 years after any such release by MFC. A release by MFC of any of the undersigned shall not affect the obligations of any other Owner.

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

Sections 29.1 through 29.5 of the Agreement are incorporated by reference into this Acknowledgment and all capitalized terms that are not defined in this Acknowledgment shall have the meaning given them in the Agreement.

**[SIGNATURES ARE ON THE FOLLOWING PAGE]**

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

Date: \_\_\_\_\_  
\_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

## EXHIBIT D

### GUARANTY AGREEMENT

This guaranty agreement is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ of \_\_\_\_\_ (“Guarantor”)

and Margaritas Franchising Corp. of 273 Locust Street, Suite 200, Dover, New Hampshire 03820 (“Franchisor”)

#### WHEREAS:

- A. Franchisor and \_\_\_\_\_ (“Franchisee”) have entered into a Franchise Agreement dated \_\_\_\_\_.
- B. Guarantor is a shareholder, director, officer, member, trustee and/or partner of Franchisee.
- C. In consideration of and as an inducement to Franchisor to enter into the Franchise Agreement with Franchisee, Guarantor hereby covenants and agrees as follows:
1. Guarantor warrants that the facts contained in Recital A and B are correct;
  2. Guarantor has read the terms and conditions of the Franchise Agreement;
  3. Guarantor personally and unconditionally makes all the covenants, representations and agreements of Franchisee set forth in the Franchise Agreement and that Franchisee is obligated to perform thereunder;
  4. Guarantor personally, unconditionally and irrevocably guarantees to Franchisor and its successors and assigns that all of Franchisee's obligations, undertakings, agreements and covenants set forth in the Franchise Agreement will be punctually paid and performed during the term of the Franchise Agreement and thereafter, as applicable;
  5. Guarantor unconditionally and irrevocably agrees to be personally bound by, and personally liable for the breach of, each and every provision of the Franchise Agreement by Franchisee;
  6. Upon default by Franchisee or notice from Franchisor, Guarantor will immediately make each payment and perform each obligation required of Franchisee under the Franchise Agreement;
  7. Without affecting the obligations of any guarantor under this Guaranty Agreement, Franchisor may, without notice to Guarantor, waive, renew, extend, modify, amend or release any indebtedness or obligation of Franchisee or any guarantor, or settle, adjust or compromise any claims against Franchisee or any guarantor;
  8. Guarantor waives all demands and notices of every kind with respect to enforcement of this Guaranty Agreement, including, without limitation, notice of presentment, demand for payment or performance by Franchisee, any default by Franchisee or any guarantor, and any release of any guarantor or other security for the Franchise Agreement or the obligations of Franchisee;
  9. Franchisor may pursue its rights against any guarantor without first exhausting its remedies against Franchisee and without joining any other guarantor hereto and no delay on the part of Franchisor in the exercise of any right or remedy shall operate as a waiver of such right or remedy, and no single or partial exercise of such right or remedy shall preclude the further exercise of such right or remedy;
  10. Upon receipt by Franchisor of notice of the death of Guarantor, the estate of deceased Guarantor

shall be bound by the foregoing Guaranty Agreement, but only for defaults and obligations under the Franchise Agreement existing at the time of death; the obligations of all other guarantors shall continue in full force and effect;

11. This Guaranty Agreement will continue and is irrevocable during the term of the Franchise Agreement and, if required by the Franchise Agreement, after its termination or expiration;
12. Guarantor's obligations under this Guaranty Agreement are effective on the Effective Date of the Franchise Agreement, regardless of the actual date of signature;
13. This Guaranty Agreement is governed by New Hampshire law and Guarantor irrevocably submits to the jurisdiction and venue of the courts of New Hampshire;
14. If Franchisor is required to enforce this Guaranty Agreement in any judicial or arbitration proceeding or on any appeals, Guarantor must reimburse Franchisor for its enforcement costs. Enforcement costs include reasonable accountants', attorneys', attorney's assistants', arbitrators', and expert witness fees, costs of investigation and proof of facts, court costs, filing fees, other litigation expenses and travel and living expenses, whether incurred prior to, in preparation for, or in contemplation of the filing of any written demand, claim, action, hearing or proceeding to enforce this Guaranty Agreement;
15. Guarantor acknowledges that he or she has obtained independent legal advice before signing this Guaranty Agreement.

IN WITNESS WHEREOF Guarantor has signed this Guaranty Agreement under seal.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address  
\_\_\_\_\_

Signed, sealed and delivered by the above-named Guarantor in the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address  
\_\_\_\_\_

**EXHIBIT E**

**NOTICE OF KEY EMPLOYEES**

In accordance with the provisions of Section 8.11.4 of the Franchise Agreement, the following list of owners, partners, and/or employees, if any, are hereby identified as Key Employees of Franchisee and/or the Franchised Restaurant.

**KEY EMPLOYEES:**

NAMES

RELATIONSHIP TO FRANCHISEE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_.

Franchisee(s):

\_\_\_\_\_  
\_\_\_\_\_

Franchisor:

\_\_\_\_\_

**EXHIBIT F**

**WEEKLY ADVERTISING OBLIGATION**

Your Advertising Obligation under Section 10 of the Franchise Agreement shall be allocated as set forth below, unless and until modified by Margaritas as provided in Section 10:

- 1. Brand Fund (Section 10.3) \_\_\_\_\_% of Gross Sales
- 2. Regional Advertising Fund (Section 10.4) \_\_\_\_\_% of Gross Sales
- 3. Local Advertising (Section 10.5) \_\_\_\_\_% of Gross Sales

**TOTAL ADVERTISING OBLIGATION:** \_\_\_\_\_% of Gross Sales

**EXHIBIT G**  
**FORM OF RELEASE OF CLAIMS**

**RELEASE OF CLAIMS**  
**THIS IS A CURRENT FORM THAT IS SUBJECT TO CHANGE OVER TIME.**

**THIS RELEASE OF CLAIMS** is made and entered into on \_\_\_\_\_ 20\_\_ ("the Effective Date") by and between Margaritas Franchising Corp., a Delaware corporation with its principal place of business at 273 Locust Street, Suite 200, Dover, New Hampshire 03820 (hereinafter referred to as "Franchisor") and [ \_\_\_\_\_ ], a/an [ \_\_\_\_\_ ] with its principal place of business at [ \_\_\_\_\_ ](hereinafter referred to as "Franchisee") collectively "the Parties".

**RECITALS**

**WHEREAS**, Franchisor and Franchisee entered into a Margaritas Franchising Corp. [Franchise Agreement dated \_\_\_\_\_].

[NOTE: Describe the circumstances relating to the release.].

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

1. **Recitals.** The Recitals above are incorporated herein by reference.

2. **Release of Claims by Franchisor.** In consideration of, and only upon full payment of \$ \_\_\_\_\_ to Franchisor, and the other terms and conditions of this Release of Claims, the receipt and sufficiency of which is hereby acknowledged, Franchisor, for itself and for each of its affiliated corporations, limited liability companies, subsidiaries, divisions, insurers, indemnitors, attorneys, successors, and assigns, together with all of its past and present members, directors, officers, employees, attorneys, agents, assigns and representatives does hereby release and forever discharge Franchisee and each of its affiliated corporations, limited liability companies, subsidiaries, divisions, insurers, indemnitors, attorneys, successors, and assigns, together with all of its past and present members, directors, officers, employees, attorneys, agents, assigns and representatives of and from any and all actions, suits, proceedings, claims (including, but not limited to, claims for attorneys' fees), complaints, judgments, executions, whether liquidated or unliquidated, known or unknown, asserted or unasserted, absolute or contingent, accrued or not accrued, disclosed or undisclosed, related solely to monies owed to Franchisor by Franchisee under the [\_\_\_\_\_].

3. **Release of Claims by Franchisee.** In consideration of the other terms and conditions of this Release of Claims, the receipt and sufficiency of which is hereby acknowledged, Franchisee, for itself and for each of its affiliated corporations, limited liability companies, subsidiaries, divisions, insurers, indemnitors, attorneys, successors, and assigns, together with all of its past and present members, directors, officers, employees, attorneys, agents, assigns and representatives, does hereby release and forever discharge Franchisor and each of its respective affiliated corporations, limited liability companies, subsidiaries, divisions, insurers, indemnitors, attorneys, successors, and assigns, together with all of their past and present directors, officers, members, employees, attorneys, agents, assigns and representatives in their capacities as such, of and from any and all actions, suits, proceedings, claims (including, but not limited to, claims for attorneys' fees), complaints, charges, judgments, executions, whether liquidated or unliquidated, known or unknown, asserted or unasserted, absolute or contingent, accrued or not accrued, related to the Franchise Agreement.

**4. Entire Agreement.** This Release of Claims constitutes the entire agreement between the Parties relative to the subject matter contained herein, and all prior understandings, representations and agreements made by and between the Parties relative to the contents contained in this Release of Claims are merged into this Release of Claims.

**5. Voluntary Nature of Agreement.** The Parties acknowledge and agree that they have entered into this Release of Claims voluntarily and without any coercion. The Parties further represent that they have had the opportunity to consult with an attorney of their own choice, that they have read the terms of this Release of Claims, and that they fully understand and voluntarily accept the terms.

**6. Governing Law and Jurisdiction.** This Release of Claims will be construed and enforced in accordance with the law of the State of New Hampshire without regard to its choice of law rules.

**7. Attorneys' Fees.** All rights and remedies under this Release of Claims shall be cumulative and none shall exclude any other right or remedy allowed by law. In the event of a breach of this Release of Claims that requires one of the parties to enforce the terms and conditions of this Release of Claims, the non-prevailing party shall pay the prevailing party's attorneys' fees and costs incurred by reason of the breach.

**8. Counterparts.** This Release of Claims may be executed in any number of counterparts each of which, when executed and delivered, shall be deemed an original, but all of which shall together constitute on and the same instrument.

This Release shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

This General Release shall not apply to claims arising under the Washington Franchise Investment Protection Act, RCW 19.100, and the rules adopted thereunder.

Dated: \_\_\_\_\_, 20\_\_

MARGARITAS FRANCHISING CORP.  
By \_\_\_\_\_  
Its \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

FRANCHISEE: \_\_\_\_\_  
By \_\_\_\_\_  
Its \_\_\_\_\_

***EXHIBIT D***  
***FINANCIAL STATEMENTS***

**Margaritas Franchising Corporation**

**Financial Statements and  
Independent Auditor's Report**

**December 31, 2023**

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Margaritas Franchising Corporation

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## Independent Auditor's Report

To Management  
Margaritas Franchising Corporation

### *Opinion*

We have audited the financial statements of Margaritas Franchising Corporation which comprise the balance sheet as of December 31, 2023 and the related statements of operations, shareholders' equity, and cash flows for the year then ended, 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 Margaritas Franchising Corporation as of December 31, 2023, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

### *Basis for Opinion*

We conducted our audit 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 Audit of the Financial Statements section of our report. We are required to be independent of Margaritas Franchising Corporation, and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### *Restatement of 2022 Financial Statements*

The financial statements of Margaritas Franchising Corporation for the year ended December 25, 2022, before the restatement described in Note 4, were audited by another auditor whose report dated April 28, 2023, expressed an unmodified opinion on those statements. As part of our audit of the 2023 financial statements, we also audited adjustments described in Note 4 that were applied to restate the 2022 financial statements. In our opinion, such adjustments are appropriate and have been properly applied. We were not engaged to audit, review, or apply any procedures to the 2022 financial statements of the Company other than with respect to the adjustments and, accordingly, we do not express an opinion or any other form of assurance on the 2022 financial statements as a whole.

### *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 control 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 Margaritas Franchising Corporation's ability to continue as a going concern for one year after the date that the financial statements are available to be issued.

*Auditor's Responsibilities for the Audit 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 an audit 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.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- 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 consolidated financial statements.
- Obtain an understanding of internal control relevant to the audit 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 Margaritas Franchising Corporation'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 Margaritas Franchising Corporation'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 audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

*CohnReznick LLP*

Melville, New York  
April 19, 2024

Margaritas Franchising Corporation

Balance Sheet  
December 31, 2023

Assets

Current Assets	
Cash and cash equivalents	\$ 361,330
Royalties and other accounts receivable	19,876
Due from affiliate, net	54,310
Prepaid expenses and other current assets	<u>11,995</u>
Total current assets	<u>\$ 447,511</u>

Liabilities and Shareholders' Equity

Current liabilities	
Accounts payable and accrued expenses	\$ 517
Deferred revenue, current portion	<u>13,000</u>
Total current liabilities	13,517
Long-term liabilities	
Deferred revenue, net of current portion	<u>48,333</u>
Total liabilities	61,850
Shareholders' equity	
Common stock, no par value, 1,500 shares authorized, 100 shares issued and outstanding	-
Additional paid-in capital	300,000
Retained earnings	<u>85,661</u>
Total shareholders' equity	<u>385,661</u>
Total liabilities and shareholders' equity	<u>\$ 447,511</u>

See Notes to Financial Statements

Margaritas Franchising Corporation

Statement of Operations  
Year Ended December 31, 2023

Franchise revenues	
Franchise and area development fees	\$ 21,625
Royalties	643,457
Brand fund contributions	284,442
	<hr/>
Total franchise revenues	949,524
	<hr/>
Operating expenses	
Salaries and wages	241,352
Professional fees	234,043
Advertising	157,742
Other operating expenses	63,400
	<hr/>
Total operating expenses	696,537
	<hr/>
Other income/expense	
Other income	27,955
	<hr/>
Total other income	27,955
	<hr/>
Income before tax provision	280,942
	<hr/>
Income tax provision	8,055
	<hr/>
Net income	\$ 272,887
	<hr/>

See Notes to Financial Statements.

Margaritas Franchising Corporation

Statement of Shareholders' Equity  
Year Ended December 31, 2023

	Common Stock		Additional paid-in capital	Retained earnings (deficit)	Total shareholders' equity
	Number of shares	Amount			
Balance, December 25, 2022	100	\$ -	\$ 300,000	\$ (203,781)	\$ 96,219
Restatement (see Note 4)	-	-	-	12,555	12,555
Balance December 25, 2022 (restated)	100	-	300,000	(191,226)	108,774
Cumulative effect of adoption of ASC 326 (see Note 2)	-	-	-	4,000	4,000
Balance December 25, 2022	100	-	300,000	(187,226)	112,774
Net income	-	-	-	272,887	272,887
Balance, December 31, 2023	100	\$ -	\$ 300,000	\$ 85,661	\$ 385,661

See Notes to Financial Statements.

Margaritas Franchising Corporation

Statement of Cash Flows  
Year Ended December 31, 2023

Cash flows from operating activities	
Net income	\$ 272,887
Adjustments to reconcile net income to net cash provided by operating activities	
Changes in operating assets and liabilities (Increase) decrease in	
Royalties and other accounts receivable	4,721
Prepaid expenses and other current assets	12,335
Accounts payable and accrued expenses	(15,941)
Due from affiliate	(95,182)
Deferred revenue	<u>(21,626)</u>
Net cash provided by operating activities	<u>157,194</u>
Net increase in cash and cash equivalents	157,194
Cash and cash equivalents, beginning of year	<u>204,136</u>
Cash and cash equivalents, end of year	<u>\$ 361,330</u>

See Notes to Financial Statements.

**Margaritas Franchising Corporation**

**Notes to Financial Statements  
December 31, 2023**

**Note 1 - Organization and operations**

Margaritas Franchising Corporation, a Delaware S corporation (the "Company" or "MFC"), was incorporated on October 27, 2008 for the purpose of offering franchisees the opportunity to operate and develop Mexican-style restaurant franchises.

The Company's fiscal year is an annual accounting period that varies from fifty-two to fifty-three weeks, ending on the last Sunday of December. In these financial statements, all references to fiscal 2023 refer to the fiscal year ended December 31, 2023, which were comprised of 53 weeks.

As of December 31, 2023, there were 6 franchised restaurants open.

Units operating at beginning of period	7
Units opened	-
Units closed	1
Units operating at end of period	<u>6</u>

The Company maintains a system-wide marketing and advertising fund (the "Brand Fund"). Franchisees and Margaritas Management Group, Inc. ("MMG") owned restaurants (see Note 2) are required to contribute a designated portion of restaurant sales (0.5%), as defined, to the Brand Fund, which is used for marketing and advertising efforts related to the Margaritas brand.

**Note 2 - Summary of significant accounting policies**

**Basis of presentation**

The accompanying financial statements are prepared in conformity with accounting principles generally accepted in the United States of America ("GAAP").

The Company receives administrative support from MMG, a related party under common control. Additionally, the Company is listed as a guarantor on MMG's revolving line of credit, equipment line of credit, and term note.

**Cash and cash equivalents**

Cash and cash equivalents include cash on hand and deposits in commercial banks. The Company considers all highly-liquid investments purchased with an original maturity of three months or less to be cash equivalents. The Company has no cash equivalents as of December 31, 2023.

The Company maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses in these accounts. The Company believes it is not exposed to any significant risk on cash and cash equivalents.

**Accounts receivable and credit losses**

Accounts receivable are primarily comprised of receivables from franchisees that are paid in a short period of time, normally three months or less. Expected credit losses are not measured for groups of financial assets whose historical credit loss information adjusted for current conditions and reasonable forecasts results in an expectation that nonpayment of the amortized cost basis is at or near zero. Receivables from franchisees generally settle within a short period of time, have historically had little to no credit losses, and management continues to expect to collect substantially all of those receivables. Accordingly, an allowance for credit losses has not been provided for franchisee receivables carried at amortized cost. Accounts receivable was \$22,275 as of January 1, 2023.

**Margaritas Franchising Corporation**

**Notes to Financial Statements  
December 31, 2023**

**Revenue recognition**

The Company receives royalty fees under contracts with franchisees in the United States of America. The Company recognizes royalty fee income based upon a contracted percentage of actual franchisee collections. The royalty fee income is recognized when the underlying sale to the franchisees' customer occurs. Royalty fee income from franchisees was \$643,457 in fiscal 2023.

Under the Company's contracts with its franchisees, the franchisees pay to the Company a marketing fee ("Brand Fund"). The Company recognizes Brand Fund income based upon a contracted percentage of actual franchisee collections. Restaurants owned by MMG also pay a percentage of their revenue as part of Brand Fund revenue. The Brand Fund revenue is recognized when the underlying sale to the franchisees' or MMG restaurants' customer occurs. The Brand Fund is a component of revenue on the accompanying statement of income. During the year ended December 31, 2023 the Company recognized \$75,478, from franchisees and \$208,964 from MMG, for a total of \$284,442.

The Company collects initial franchise fees in conjunction with entering into new franchise agreements. This franchise fee includes certain pre-opening services such as training and assistance during the initial start of the contract and are typically separated from the license and considered as a distinct performance obligation. The Company determines the initial franchise fee for each contract, which requires judgement. Revenues from initial franchise fees are deferred and recognized as revenues only when all material services relating to the sale have been substantially performed. The performance obligations are satisfied over time, starting when a franchisee contract is signed, through the end of the term of the agreement. Because the Company is transferring licenses to access intellectual property during a contractual term, franchise fee revenue, excluding the pre-opening performance obligation, is recognized on a straight-line basis over the agreement term. Generally, payment for the initial franchise fee is received upon execution of the licensing agreement. There were no new franchise fees collected during 2023. As of December 31, 2023 and January 1, 2023, the Company had deferred revenue related to initial franchise fees of \$61,333 and \$82,959, respectively. During the year ended December 31, 2023, the Company recognized \$21,625 of revenue from initial franchise fees which are recognized over time.

**Deferred revenue**

Deferred revenue represents unearned franchise fees. The Company recognizes this revenue when the fees are earned.

**Advertising costs**

Advertising costs of \$157,742 for the year ended December 31, 2023 are expensed as incurred.

**Income taxes**

The Company has elected to be treated as an "S" corporation for federal and certain state income tax purposes. Accordingly, the taxable income of the Company will generally not be subject to federal and applicable state income taxes at the corporate level, but will be included in the taxable income of the individual stockholders.

The Company accounts for income taxes in accordance with ASC 740, *Income Taxes*. For uncertain tax positions, ASC 740 requires the Company to determine whether a tax position of the Company is more likely than not to be sustained upon examination by the applicable taxing authority, including the resolution of any related appeals or litigation processes, based on the technical merits of the position. The Company reviews and evaluates tax positions in its major jurisdictions and determines whether or not there are uncertain tax positions that require financial statement recognition and the recording of a tax liability.

**Margaritas Franchising Corporation**

**Notes to Financial Statements  
December 31, 2023**

The income tax returns of the Company are subject to examination by certain state and local tax regulators. All tax years after 2019 are open to examination.

**Use of estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the period. Actual results could differ from those estimates.

**Adoption of new accounting standards**

On January 1, 2023, the Company adopted Accounting Standards Update No. 2016-13 *Measurement of Credit Losses on Financial Instruments*, and its related amendments (collectively, Topic 326). The Company recognized a cumulative effect of adopting Topic 326 of \$4,000 to retained earnings as of the adoption date. The new standard changes the impairment model for financial assets measured at amortized cost, including trade receivables and receivables from franchisees, from an incurred loss model to a current and expected loss model. Under the current and expected credit loss (CECL) model, entities recognize credit losses expected to be incurred over the entire contractual term of the instrument rather than delaying recognition of credit losses until it is probable that a loss has been incurred. In accordance with Topic 326, the Company evaluates certain criteria, including aging and historical write offs, the current economic condition of specific customers and future economic conditions to determine the appropriate allowance for credit losses. As a result of the adoption of Topic 326, the Company recorded the following adjustments as of January 1, 2023:

	January 2023 As Reported Under ASC 326	December 31, 2022 Pre-ASC 326 Adoption	Impact of ASC326 Adoption
Financial assets carried at amortized cost:			
Accounts receivable, net	\$ 22,275	\$ 18,275	\$ 4,000
Receivables from franchisees	22,275	22,275	-
Allowance for credit losses of receivables from franchisees	-	(4,000)	4,000

**Note 3 - Related party transactions**

**Due from affiliate**

The Company shares resources and certain expenses with MMG. For example, certain members of management or other personnel of MMG may perform services for the Company and the Company's management and personnel may perform services for MMG. Management believes its practices are prudent and the expenses recognized by the Company on the accompanying income statement represent valid expenditures associated with the Company's operating activities. MMG performs substantially all administrative functions for the Company. Certain expenditures are made on behalf of the Company by MMG which are charged to the due from affiliate account on the accompanying balance sheet. Brand Fund revenue for the Company is also charged to the due from affiliate account, which is periodically reconciled and paid by the Company to MMG, or by MMG to the Company, as appropriate. The full balance of due from affiliate of \$54,310 as of December 31, 2023 was due from MMG.

**Margaritas Franchising Corporation**

**Notes to Financial Statements  
December 31, 2023**

MMG's lines of credit and term notes are subject to certain restrictive covenants. The most significant covenants relate to maintaining certain financial ratios, prohibiting change of control without the consent of the lender, requiring certain periodic reporting, and limiting certain other transactions, including shareholder distributions. The Company is listed as a guarantor on the line of credit.

**Brand fund**

As disclosed in Note 2, MMG owned restaurants contribute to the Brand Fund. For the year ended December 31, 2023, contribution to the Brand Fund by MMG totaled \$208,964.

**Note 4 - Restatement**

The Company determined that the Brand Fund deferred revenue and receivables from franchisees were not properly recorded in the 2022 financial statements (see Note 2). The impact of the restatement on the 2022 financial statements is set forth in the table below:

	<u>As previously reported</u>	<u>Adjustment</u>	<u>As restated</u>
Total Assets	\$ 246,741	\$ 2,322	\$ 249,063
Total Liabilities	150,522	(10,233)	140,289
Shareholders' Equity	96,219	12,555	108,774
Net Income	381,053	12,555	393,608

**Note 5 - Subsequent events**

The Company has evaluated subsequent events through April 19, 2024, the date on which the financial statements were available to be issued.

**Margaritas Franchising Corporation**

**~~INTERIM UN-AUDITED FINANCIAL STATEMENTS~~**

**For the Period**

**~~December 26, 2022 through February 19, 2023~~**

# Margaritas Franchise Corporation

## Balance Sheet

As of February 19, 2023

	TOTAL
<b>ASSETS</b>	
Current Assets	
Bank Accounts	
1031 Citizens - Checking	0.00
1038 Franchise Operating Acct - Provident	185,907.59
1039 Franchise Marketing Acct - Provident	60,373.69
<b>Total Bank Accounts</b>	<b>\$246,281.28</b>
Accounts Receivable	
1100 Accounts Receivable	2,338.91
1140 MARC franchisee - Lansdale	5,812.45
1141 MARC franchisee - Langhorne	4,545.17
1142 MARC franchisee - Collegeville	0.00
1145 GSD franchisee - Tom's River	0.00
1146 GSD franchisee - Wayne NJ	0.00
1147 GSD franchisee - Metuchen NJ	0.00
1150 MMO franchisee - Orono	1,362.79
1151 MMO franchisee - Ellsworth	1,970.30
1160 DEV franchisee - Tom's River	5,395.45
1161 DEV franchisee - Metuchen NJ	5,062.21
1201 N/R MMG	-250,730.38
1208 Brand Fund/MMG - Franchise	194,109.68
<b>Total Accounts Receivable</b>	<b>\$ -30,133.42</b>
Other Current Assets	
1101 A/R - reserve	-4,000.00
1450 Prepaid Real Estate Taxes	0.00
1485 Prepaid Other	8,250.00
1487 Prepaid Marketing	5,834.00
<b>Total Other Current Assets</b>	<b>\$10,084.00</b>
<b>Total Current Assets</b>	<b>\$226,231.86</b>
<b>TOTAL ASSETS</b>	<b>\$226,231.86</b>
<b>LIABILITIES AND EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
2020 Accounts Payable	0.00
<b>Total Accounts Payable</b>	<b>\$0.00</b>
Other Current Liabilities	
2015 Payroll Payables	0.00
2485 Accrued Expenses	11,991.49
<b>Total Other Current Liabilities</b>	<b>\$11,991.49</b>
<b>Total Current Liabilities</b>	<b>\$11,991.49</b>

# Margaritas Franchise Corporation

## Balance Sheet

As of February 19, 2023

	TOTAL
<b>Long-Term Liabilities</b>	
2101 N/P - Margaritas Management Group, Inc.	0.00
2515 Gift Cards	0.00
2560 Deferred Franchise Fee Earned	67,208.52
2561 Deferred Revenue - ADA Fee	12,083.66
2587 Deferred Brand Fund	17,638.81
2781 N/P - John Pelletier	0.00
2783 N/P - Gates Investments LLC	0.00
2787 N/P - Shareholder J. Pelletier	0.00
2789 N/P - Shareholder E.S. Bagley	0.00
2794 N/P - David Pelletier	0.00
<b>Total Long-Term Liabilities</b>	<b>\$96,930.99</b>
<b>Total Liabilities</b>	<b>\$108,922.48</b>
<b>Equity</b>	
3000 Opening Balance Equity	-208,041.00
3305 Additional Paid-in Capital JP	166,800.00
3310 Additional Paid-in Capital DP	73,200.00
3315 Additional Paid-in Capital SB	60,000.00
3406 Capital Draw - JP	-16,120.64
3411 Capital Draw - DP	-30,318.43
3416 Capital Draw - ESB	-3,145.86
3426 Capital Draw - RR	-20,415.00
3428 Capital Draw - AA	-48,188.37
3430 Capital Draw - MK	-26,382.46
3432 Capital Draw - PT	-8,076.26
3800 Net Income Fiscal Adj	-2,929.28
3900 Retained Earnings	156,781.01
Net Income	24,145.67
<b>Total Equity</b>	<b>\$117,309.38</b>
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>\$226,231.86</b>

# Margaritas Franchise Corporation

## Profit and Loss

December 26, 2022 - February 19, 2023

	TOTAL
<b>Income</b>	
4365 Royalty Fee Income - MARC	39,509.50
4367 Royalty Fee Income - MMO	12,118.86
4368 Royalty Fee Income - DEV	38,950.19
4370 Income - Franchise Fee Earned	3,666.66
4385 Brand Fund Revenue - MARC	1,199.14
4387 Brand Fund Revenue - MMO	371.82
4388 Brand Fund Revenue - DEV	936.02
<b>Total Income</b>	<b>\$96,752.19</b>
<b>GROSS PROFIT</b>	
	<b>\$96,752.19</b>
<b>Expenses</b>	
6090 Payroll - Management	23,579.54
6095 Management Bonus	0.00
6190 PR Tax - Management	1,762.16
6250 Employee Medical Insurance	1,577.20
6360 Insurance - Worker's Comp	15.74
6370 Insurance - General Liability	3,027.16
6508 Marketing - Promo Events	2,518.00
6541 Marketing - Other Advertising	15,300.00
<del>6558 Marketing - Agency Fees</del>	<del>8,803.00</del>
6564 Marketing - Production - Printing	293.84
6567 Marketing - T - Shirts	3,112.46
6935 Professional Fees - Accounting	8,269.13
6940 Professional Fees - Legal	1,142.50
6945 Professional Fees - Consultants	4,166.66
7060 Postage	227.36
7070 Travel & Lodging	1,866.03
<b>Total Expenses</b>	<b>\$75,660.78</b>
<b>NET OPERATING INCOME</b>	
	<b>\$21,091.41</b>
<b>Other Expenses</b>	
8736 Billable Expenses - MMO - Orono	0.00
8737 Billable Expenses - MMO - Ellsworth	0.00
8740 Billable Expenses - KRISH - Tom's River	0.00
8741 Billable Expenses - DIA - Metuchen NJ	0.00
<b>Total Other Expenses</b>	<b>\$0.00</b>
<b>NET OTHER INCOME</b>	
	<b>\$0.00</b>
<b>NET INCOME</b>	
	<b>\$21,091.41</b>

# Margaritas Franchise Corporation

## Statement of Cash Flows

December 26, 2022 - February 19, 2023

	TOTAL
<b>OPERATING ACTIVITIES</b>	
Net Income	21,091.41
Adjustments to reconcile Net Income to Net Cash provided by operations:	
1100 Accounts Receivable	-42.27
1140 MARC franchisee - Lansdale	-804.50
1141 MARC franchisee - Langhorne	-900.66
1142 MARC franchisee - Collegeville	2,399.00
1150 MMO franchisee - Orono	-606.96
1151 MMO franchisee - Ellsworth	-821.90
1160 DEV franchisee - Tom's River	-1,766.64
1161 DEV franchisee - Metuchen NJ	-1,669.01
1201 N/R MMG	15,748.15
1485 Prepaid Other	7,500.00
1487 Prepaid Marketing	2,746.00
2485 Accrued Expenses	-4,466.64
<b>Total Adjustments to reconcile Net Income to Net Cash provided by operations:</b>	<b>17,314.57</b>
<b>Net cash provided by operating activities</b>	<b>\$38,405.98</b>
<b>FINANCING ACTIVITIES</b>	
2560 Deferred Franchise Fee Earned	-3,000.00
2561 Deferred Revenue - ADA Fee	-666.66
2587 Deferred Brand Fund	7,406.17
<b>Net cash provided by financing activities</b>	<b>\$3,739.51</b>
<b>NET CASH INCREASE FOR PERIOD</b>	<b>\$42,145.49</b>
Cash at beginning of period	204,135.79
<b>CASH AT END OF PERIOD</b>	<b>\$246,281.28</b>

# Margaritas Franchising Corp.

## Financial Statements

Years Ended December 25, 2022,  
December 26, 2021 and December 27, 2020

# Margaritas Franchising Corp.

## FINANCIAL STATEMENTS

Years Ended December 25, 2022, December 26, 2021 and December 27, 2020

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RSM US LLP

## Independent Auditor's Report

Shareholders  
Margaritas Franchising Corp.

### Opinion

We have audited the financial statements of Margaritas Franchising Corp. (the Company), which comprise the balance sheets as of December 25, 2022 and December 26, 2021, the related statements of operations, shareholders' equity (deficit) and cash flows for the years ended December 25, 2022, December 26, 2021 and December 27, 2020, 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 December 25, 2022 and December 26, 2021 and the results of its operations and its cash flows for the years ended December 25, 2022, December 26, 2021 and December 27, 2020 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 Audit of the Financial Statements section of our report. We are required to be independent of the Company and to meet our other 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 control 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 Audit 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 an audit 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.

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In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- 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 audit 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 audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

*RSM US LLP*

Boston, Massachusetts  
April 28, 2023

## Margaritas Franchising Corp.

Balance Sheets

December 25, 2022 and December 26, 2021

	2022	2021
<b>ASSETS</b>		
Cash and cash equivalents	\$ 204,136	\$ 157,209
Royalties and other accounts receivables, net	18,275	33,232
Prepaid expenses and other current assets	24,330	5,335
Total current assets	<u>246,741</u>	<u>195,776</u>
 Total assets	 <u>\$ 246,741</u>	 <u>\$ 195,776</u>
 <b>LIABILITIES AND SHAREHOLDERS' DEFICIT</b>		
Current liabilities:		
Accounts payable and accrued expenses	\$ 16,458	\$ 8,761
Due to affiliate, net	40,872	127,423
Deferred revenue, current portion	19,750	25,416
Funds committed for advertising	10,233	97,530
Total current liabilities	<u>87,313</u>	<u>259,130</u>
Long-term liabilities:		
Deferred revenue, net of current portion	<u>63,209</u>	<u>83,292</u>
	<u>63,209</u>	<u>83,292</u>
Shareholders' equity (deficit):		
Common stock, no par value, 1,500 shares authorized, 100 shares issued and outstanding	-	-
Additional paid-in capital	300,000	300,000
Accumulated deficit	(203,781)	(446,646)
Total shareholders' equity (deficit)	<u>96,219</u>	<u>(146,646)</u>
 Total liabilities and shareholders' equity (deficit)	 <u>\$ 246,741</u>	 <u>\$ 195,776</u>

## Margaritas Franchising Corp.

### Statements of Operations

Years Ended December 25, 2022, December 26, 2021 and December 27, 2020

	2022	2021	2020
Franchise revenues:			
Franchise and area development fees	\$ 37,750	\$ 46,833	\$ 62,500
Royalties	688,090	641,754	320,130
Brand fund contributions	290,751	77,212	58,754
	<u>1,016,591</u>	<u>765,799</u>	<u>441,384</u>
Operating expenses:			
Salaries and wages	168,288	66,336	75,100
Professional fees	101,923	86,567	50,092
Advertising	289,511	72,839	56,964
Other operating expenses	63,142	5,820	11,087
	<u>622,864</u>	<u>231,562</u>	<u>193,243</u>
Other expense:			
Interest expense	-	52,801	55,000
Total other expense	-	52,801	55,000
Income before tax provision	393,727	481,436	193,141
Income tax provision	12,674	22,327	9,225
Net income	<u>\$ 381,053</u>	<u>\$ 459,109</u>	<u>\$ 183,916</u>

**Margaritas Franchising Corp.**

Statements of Shareholders' Equity (Deficit)  
 Years Ended December 25, 2022, December 26, 2021 and December 27, 2020

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Number of Shares	Amount			
Balance, December 30, 2019	100	\$ -	\$ 300,000	\$ (876,443)	\$ (576,443)
Cumulative impact of the adoption of ASC 606	-	-	-	(206,042)	(206,042)
Net income	-	-	-	183,916	183,916
Balance, December 27, 2020	100	-	300,000	(900,569)	(600,569)
Net income	-	-	-	459,109	459,109
Distributions to shareholders	-	-	-	(5,186)	(5,186)
Balance, December 26, 2021	100	-	300,000	(446,646)	(146,646)
Net income	-	-	-	381,053	381,053
Distributions to shareholders	-	-	-	(138,188)	(138,188)
Balance, December 25, 2022	100	\$ -	\$ 300,000	\$ (203,781)	\$ 96,219

## Margaritas Franchising Corp.

### Statements of Cash Flows

Years Ended December 25, 2022, December 26, 2021 and December 27, 2020

	2022	2021	2020
Cash flows from operating activities:			
Net income	\$ 381,053	\$ 459,109	\$ 183,916
Adjustments to reconcile net income to net cash provided by operating activities:			
Changes in assets and liabilities:			
(Increase) decrease in:			
Royalties and other accounts receivable	14,957	71,954	75,302
Prepaid expenses and other current assets	(18,995)	52	(3,609)
Increase (decrease) in:			
Accounts payable and accrued expenses	7,697	(7,585)	8,924
Due from affiliate, net	(86,551)	9,338	(73,969)
Deferred revenue	(25,749)	(46,833)	(52,501)
Funds committed for advertising	(87,297)	(10,117)	4,375
Net cash provided by operating activities	<u>185,115</u>	<u>475,918</u>	<u>140,438</u>
Cash flows from financing activities:			
Distributions to shareholders	(138,188)	(5,186)	-
Repayments of related party debt	-	(550,000)	-
Net cash used in financing activities	<u>(138,188)</u>	<u>(555,186)</u>	<u>-</u>
Net increase (decrease) in cash and cash equivalents	46,927	(79,268)	140,438
Cash and cash equivalents, beginning of year	157,209	236,477	96,039
Cash and cash equivalents, end of year	<u>\$ 204,136</u>	<u>\$ 157,209</u>	<u>\$ 236,477</u>
Supplemental disclosures of cash flow information:			
Cash paid during the year for:			
Interest	\$ -	\$ 52,801	\$ 55,000

# Margaritas Franchising Corp.

Notes to Financial Statements

Years Ended December 25, 2022, December 26, 2021 and December 27, 2020

## 1. ORGANIZATION AND OPERATIONS

Margaritas Franchising Corp., a Delaware S corporation (the "Company" or "MFC"), was incorporated on October 27, 2008 for the purpose of offering franchisees the opportunity to operate and develop Mexican-style restaurant franchises.

The Company's fiscal year is an annual accounting period that varies from fifty-two to fifty-three weeks, ending on the last Sunday of December. In these financial statements, all references to fiscal 2022, fiscal 2021, and fiscal 2020 refer to the fiscal years ended December 25, 2022, December 26, 2021, and December 27, 2020, respectively, which were comprised of 52 weeks in each year.

As of December 25, 2022, December 26, 2021 and December 27, 2020, there were 7 franchised restaurants open.

	2022	2021	2020
Units operating at beginning of period	7	7	7
Units opened	-	-	1
Units closed	-	-	(1)
Units operating at end of period	7	7	7

The Company maintains a system-wide marketing and advertising fund (the "Brand Fund"). Franchisees and Margaritas Management Group, Inc. ("MMG") owned restaurants (see Note 2) have historically been required to contribute a designated portion of restaurant sales (0.5%), as defined, to the Brand Fund, which is used for marketing and advertising efforts related to the Margaritas brand. However, this requirement of MMG owned restaurants was terminated in August of 2020. Starting on January 1, 2022, the Company made the decision to reinstate this requirement for MMG operated restaurants to contribute to the Brand Fund again.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### Basis of Presentation

The accompanying financial statements have been prepared in accordance with accounting standards set by the Financial Accounting Standards Board ("FASB"). The FASB sets generally accepted accounting principles in the United States of America ("GAAP") that the Company follows to ensure its financial condition, results of operations, and cash flows are consistently reported. References to GAAP issued by the FASB in these footnotes are to the FASB Accounting Standards Codification ("FASB ASC").

The Company receives administrative support from MMG, a related party under common control. Additionally, the Company is listed as a guarantor on MMG's revolving line of credit, equipment line of credit, and term note. As a result, management has assessed its relationship with MMG in accordance with the provisions of FASB ASC 810, *Consolidations* and has determined that as of and for the years ended December 25, 2022, December 26, 2021 and December 27, 2020, MMG had a variable interest in the Company and was its primary beneficiary. Management of MMG will continue to monitor the relationship and conduct formal reassessments at least annually.

## Margaritas Franchising Corp.

Notes to Financial Statements

Years Ended December 25, 2022, December 26, 2021 and December 27, 2020

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### 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES...continued

#### Reclassification

Certain prior period amounts were reclassified to conform with the presentation in the current period.

#### Cash and Cash Equivalents

Cash and cash equivalents include cash on hand and deposits in commercial banks. The Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents.

The Company maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses in these accounts. The Company believes it is not exposed to any significant risk on cash and cash equivalents.

#### Royalties and Other Accounts Receivable

Royalties and other accounts receivables are stated at the amount management expects to collect from outstanding balances. An allowance for doubtful accounts is provided for those receivables considered to be uncollectible based upon historical experience and management's evaluation of outstanding receivables at the end of the year. As of December 25, 2022 and December 26, 2021 there was an allowance for doubtful accounts of \$4,000. Balances that are still outstanding after management has used reasonable collection efforts are written off through a charge to the allowance for doubtful accounts.

#### Revenue

The Company recognizes revenue under Accounting Standards Update ("ASU") 2014-09, *Revenue from Contracts with Customers (Topic 606)*, ("ASC 606") using the modified retrospective approach. The Company's revenue consists of franchise royalties, advertising fund contributions, franchise fees, and upfront fees from development agreements. The Company's results of operations are substantially affected by economic conditions, which can vary significantly by market and can be impacted by consumer disposable income levels and spending habits. Effective December 31, 2019, the Company recognizes revenue in accordance with ASC 606, which provides a five-step model for recognizing revenue from contracts with customers as follows:

- Identify the contract with a customer
- Identify the performance obligations in the contract
- Determine the transaction price
- Allocate the transaction price to the performance obligations in the contract
- Recognize revenue when or as performance obligations are satisfied

# Margaritas Franchising Corp.

Notes to Financial Statements

Years Ended December 25, 2022, December 26, 2021 and December 27, 2020

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## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES...continued

### Area Development and Franchise Fees

Area development fees are the result of the sale of area development rights which provide franchisees the opportunity to open a specified number of restaurants in a predetermined geographic area. For each location opened, a separate franchise agreement is executed. The area development fee is a fixed fee per location to be developed under the Area Development Agreement ("ADA"). This fee is generally paid by the franchisee at the time of the signing of the ADA and is nonrefundable. A minimum number of restaurants is not required to be opened, however the Company generally grants the right to open four in each ADA.

Franchise fees include the right to use the Company's symbolic intellectual property over the term of each franchise agreement, as well as ongoing administrative and support services, such as management of the advertising fund contributions, development of training materials and menu items, and restaurant monitoring. These promises are highly dependent upon and interrelated with the franchise right granted in the franchise agreement, so they are not considered to be individually distinct and therefore are accounted for as a single performance obligation. The performance obligation under the franchise agreement is the promise to provide daily access to the Company's symbolic intellectual property over the term of each franchise agreement, which is a series of distinct services that represents a single performance obligation. Although the franchisor's underlying activities associated with the symbolic intellectual property will vary both within a day and day-to-day, the symbolic intellectual property is accessed over time and the customer (the franchisee) simultaneously receives and consumes the benefit from the franchisor's performance of providing access to the symbolic intellectual property and other related activities. Franchise fees are paid at the time an individual franchise agreement is signed and are non-refundable.

Under ASC 606, area development and franchise fees are recognized as revenue over time, on a straight-line basis over the term of the ADA and franchise agreements, once an individual franchise location has been opened. The Company believes that the area development rights are not distinct from franchise agreements. Upfront area development fees are apportioned to each franchised restaurant and recognized over the contractual term of the franchise agreement once each restaurant is opened. Area development fees and franchise fees that have been paid to the Company but have not yet been earned are still recorded as deferred revenue.

### Royalties

The Company charges royalties to franchisees based on a percentage of gross location sales, subject to guaranteed minimums as applicable and as defined in each respective franchise agreement. Continuing royalties are calculated as a percentage of weekly gross franchise restaurant sales, excluding alcoholic beverage revenue, and are related entirely to the Company's performance obligation under the franchise agreement. These royalties are considered variable consideration but, because they relate to a license of intellectual property, they are not included in the transaction price. Instead, royalty revenue is recognized as franchised restaurant sales occur.

## Margaritas Franchising Corp.

Notes to Financial Statements

Years Ended December 25, 2022, December 26, 2021 and December 27, 2020

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### 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES...continued

#### Advertising

Advertising contributions related to the Brand Fund are recorded gross as part of revenue. Advertising services which promote the brand are not separable between different franchise agreements or franchisees, and are not distinct because the services and franchise right are highly dependent and interrelated with each other. Due to the fact that these contributions are sales-based, the timing of revenue recognition on these contributions follows the sales-based royalties and contributions are recognized into revenue as the underlying sales occur. During the years ended December 25, 2022, December 26, 2021, and December 27, 2020, Brand Fund advertising contributions of \$290,751, \$77,212, and \$58,754 were included within revenues on the statements of operations, respectively. Costs related to advertising intended to benefit the Company are expensed as incurred, and during the years ended December 25, 2022, December 26, 2021, and December 27, 2020, these advertising costs amounted to \$289,511, \$72,839, and \$56,964, respectively.

The Company does not believe its revenue streams contain a significant financing component because (a) the timing of the upfront payments for franchising and area development fees do not constitute a significant source of financing for the Company and (b) the sales-based royalty is variable, based on factors outside the Company or the franchisee's control, and is not paid up front and therefore is not indicative of a significant financing component.

#### Income Taxes

The Company, with the consent of its shareholders, has elected to be taxed under the provisions of Subchapter S of the Internal Revenue Code. Under the Subchapter S provisions, the Company does not pay federal corporate income taxes on its taxable income. Instead, the shareholders are liable for individual federal income taxes on their proportionate share of the Company's taxable income.

For those states where S corporation status is not recognized, the Company incurs state income taxes and the financial statements include a provision for the state income tax effect of transactions reported in the financial statements. The amount of the provision is determined by the apportionment of various factors to multiple jurisdictions and the tax rates in those jurisdictions.

The Company recognizes the tax benefit of tax positions to the extent that the benefit will more likely than not be realized. The determination as to whether the tax benefit will more likely than not be realized is based upon the technical merits of the tax position as well as consideration of the available facts and circumstances. With few exceptions, the Company is no longer subject to tax examinations by tax authorities for years before 2018. As of December 25, 2022, December 26, 2021, and December 27, 2020, the Company did not have any uncertain tax positions.

It is anticipated that the Company will declare and pay, at a minimum, distributions sufficient to pay the federal and state income taxes associated with the allocated portion of the Company's income to the shareholders.

## Margaritas Franchising Corp.

Notes to Financial Statements

Years Ended December 25, 2022, December 26, 2021 and December 27, 2020

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### 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES...continued

#### Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the period. Actual results could differ from those estimates.

### 3. RELATED PARTY TRANSACTIONS

#### Due to Affiliate

Certain expenses of the Company have been funded by MMG, a company under common control. During the years ended December 25, 2022 and December 26, 2021, the Company had only one full-time employee. There is no administrative infrastructure or staff and all administrative functions are performed for the Company by MMG. Certain costs incurred by MMG to support MFC and/or individual franchisees during the construction and pre-opening phase have been charged to MFC and have been partially repaid. These amounts are expected to be repaid in full. Other costs continue to be absorbed by MMG. As activity increases, the Company expects to formalize its arrangement with MMG and to reimburse MMG for future services.

MMG's lines of credit and term notes are subject to certain restrictive covenants. The most significant covenants relate to maintaining certain financial ratios, prohibiting change of control without the consent of the lender, requiring certain periodic reporting, and limiting certain other transactions, including shareholder distributions. As of December 25, 2022, MMG was in compliance with all of its covenants.

#### Brand Fund

As disclosed in Note 2, MMG owned restaurants previously contributed to the Brand Fund. This requirement was suspended in August of 2020 and reinstated on January 1, 2022. For the years ended December 25, 2022, December 26, 2021 and December 27, 2020, respectively, contributions to the Brand Fund by all restaurants totaled approximately \$290,751, \$77,212 and \$58,754, respectively. Amounts due from MMG for brand fund fees recorded within due to affiliate, net on the accompanying balance sheets were \$194,110 and \$0 as of December 25, 2022 and December 26, 2021, respectively.

#### Related Party Debt

During the year ended December 26, 2011, the Company entered into 5 separate term loan agreements with its shareholders for use in providing financing for the Company's operations. The related party loans had original principal balances of \$100,000 to \$150,000 each, bore interest at a fixed rate of 10%, and were subordinated to MMG's revolving line of credit, equipment line of credit, and installment notes. The Company was required to make interest only payments for a one year period, at which time the related party loans were to mature and outstanding principal amounts were due in full. The Company had an option to extend each loan for a period of one year, which it elected to do for all 5 term loans every year until 2021. All 5 related party loans were repaid in full during the year ended December 26, 2021. Interest expense on the related party loans totaled \$0, \$52,801 and \$55,000 for the years ended December 25, 2022, December 26, 2021 and December 27, 2020.

## Margaritas Franchising Corp.

Notes to Financial Statements

Years Ended December 25, 2022, December 26, 2021 and December 27, 2020

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### 4. SUBSEQUENT EVENTS

The Company has evaluated subsequent events through April 28, 2023, the date on which the financial statements were available to be issued.

***EXHIBIT E***

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**20/20**  
**Margaritas**  
**Manager Policies and Procedures Manual**

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**About This Book**

The Manager Policies and Procedures Manual has been prepared as a reference tool for managers. It is the responsibility of all managers to know and adhere to the policies and procedures in this book as well as the Team Member Policies and Procedures Manual.

This information is for the benefit of all present and future employees of the Company. The intent is to provide information concerning company standards, practices, regulations and proper conduct. None of the information in this book confers any rights or privileges to any employee to remain employed by the Company nor does it serve as an employment contract between the Company and any employee. The employee relationship is considered "at will" and can be terminated with or without notice at any time and for any reason at the option of the employee or the Company.

While everything cannot be spelled out in detail, you will find enough information to serve as a reference. Please contact Human Resources if you have questions about any policy or issues that arise that cannot be answered by reference to this book. As times change, so may the Company's policies. When this occurs, periodic updates will be issued for you to enclose with this book. The policies and procedures described in this book are applicable to all managers.

**Communication**

Good communication is very important, and in a busy environment it is important that you stay well informed. You also must ensure that you communicate well with others. The following are areas where you can obtain the information you need and how you can communicate.

- **Your Co-Managers and DOs.** These people are your primary sources of information. If you have any questions, ideas or concerns, these are the people you should be speaking with day to day.
- **Location Manager Meetings.** Location managers should be meeting as a group to discuss events and changes that affect the restaurant. Your DO will attend one meeting each quarter. A



# **Team Member Policies and Procedures Manual**

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## **Circle of Friends**

### **Manual**

**Margaritas Mexican Restaurant**

**Confidential – Updated 4/13/2016**

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**Noche Mexicana Fundraiser  
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**Margaritas Mexican Restaurant  
Confidential – Updated 4/13/2016**

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2. Team Member Policies & Procedure
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  - a. Dishwasher Development Guide
  - b. Chemical SDS Document
4. Kitchen Training Documents
  - a. Prep Cook Development Guide
  - b. Line Cook Development Guide
  - c. Line Check Module
  - d. Line Check Sheet
5. Server Training Documents
  - a. Server Development Guide
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An Illustrated Guide to the TeamworX  
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***EXHIBIT F***

***STATE SPECIFIC ADDENDA TO THE DISCLOSURE DOCUMENT***

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED FOR ILLINOIS FRANCHISEES**

In recognition of the requirements of the Illinois Franchise Disclosure Act of 1987, as amended (the "Act"), this Disclosure Document is amended as follows:

Illinois law governs the agreements between the parties to this franchise.

Section 4 of the Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void. However, a franchise agreement may provide for arbitration outside of Illinois.

Section 41 of the Act provides that any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with the Act or any other law of Illinois is void.

Your rights upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Act.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED FOR INDIANA FRANCHISEES**

In recognition of the Indiana Franchise Law, Title 23, Article 2, Chapter 2.5 Sections 1 through 51, the Franchise Disclosure Document for Margaritas Franchising Corporation ("Margaritas") offering franchises under the "Tio Juan's Margaritas" mark for use in the State of Indiana shall be amended as follows:

1. Item 17(c), pertaining to "Requirements for you to Renew or Extend" your Franchise Agreement, is hereby amended by adding the following paragraph:

"Indiana State Code 23-2-2.7-1(5) deems it unlawful for you to prospectively assent to a release, assignment, novation, waiver or estoppel which purports to relieve Margaritas from liability imposed by Indiana State Code 23-2-2.7.

2. Item 17(m) pertaining to requirements for approval of transfer, is hereby amended by adding the following:

"Indiana State Code 23-2-2.7-1(5) deems it unlawful for you to prospectively assent to a release, assignment, novation, waiver or estoppel which purports to relieve Margaritas from liability imposed by Indiana State Code 23-2-2.7.

3. Item 17(r), pertaining to the post-termination non-competition covenants, is hereby amended by adding the following paragraph:

"The post-termination covenant not to compete complies with Indiana State Code 23-2-2.7-1(9) which prohibits Margaritas from prohibiting you from competing for a period longer than 3 years or in an area greater than the exclusive area contained in your agreement."

4. Item 17(t), pertaining to the integration/merger clause, is hereby amended by adding the following paragraph:

"Notwithstanding anything to the contrary contained in your agreement, you do not waive any right under the Indiana statutes with regard to prior representations made in the Indiana Franchise Disclosure Document."

5. Item 17(v), pertaining to the choice of forum, is hereby amended by adding the following paragraph:

"Choice of forum in any jurisdiction other than Indiana is prohibited under IC 23-2-2.7-1(10). Margaritas may not require that you agree to participate in any form of alternative dispute resolution other than arbitration before an independent arbitrator."

6. Item 17(w), pertaining to the choice of law, is hereby amended by adding the following paragraph:

"The choice of New Hampshire law shall be subject to the superseding provisions in Indiana's Franchise Acts, IC 23-2-2.5 and 2.7."

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED FOR MARYLAND FRANCHISEES**

Amendments to Item 5 of the Disclosure Document:

Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement. In addition, all development fees and initial payments by area developers shall be deferred until the first franchise under the development agreement opens.

Amendments to Item 17 of the Disclosure Document:

A franchisee or area developer may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

Any claims arising under the Maryland Franchise Registration and Disclosure law must be brought within three years after the franchise is granted.

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

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

The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law.

The Development Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED FOR MINNESOTA FRANCHISEES**

As to franchises governed by the Minnesota franchise laws, If any of the terms of the Disclosure Document are inconsistent with the terms below, the terms below control.

1. Items 5 and 7 of the Disclosure Document is amended by the addition of the following paragraphs:

“All initial franchise fees shall be deferred until such time as the franchisee is open for business.”

2. Minn. Stat. §80C.21 and Minn. Rule 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreements can abrogate or reduce (1) any of the franchisee's rights as provided for in Minnesota Statutes, Chapter 80C, or (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

3. With respect to franchises governed by Minnesota law, the franchisor will comply with Minn. Stat. Sec. 80C.14 Subds. 3, 4, and 5 which require (except in certain specified cases), that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the franchise agreement and that consent to the transfer of the franchise will not be unreasonably withheld.

4. The franchisor will protect the franchisee's rights to use the trademarks, service marks, trade names, logotypes or other commercial symbols or indemnify the franchisee from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the name.

Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to Minnesota Statutes 80C.12, Subd. 1(g).

5. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.

6. The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See Minn. Rules 2860.4400J.

7. NSF checks and related interest and attorneys' fees are governed by Minnesota Statute § 604.113, which puts a cap of \$30 on initial service charges and requires notice and opportunity to cure prior to assessing interest and attorneys' fees.

8. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a release that would relieve any person from liability imposed by Minnesota Statutes, Chapter 80C.

9. Minnesota Rules 2860.4400(G) prohibits a franchisor from imposing on a franchisee

by contract or rule, whether written or oral, any standard of conduct that is unreasonable.

10. 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 in connection with this franchise.

Also, a court will determine if a bond is required.

The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.

**ADDENDUM TO TIO JUAN'S MARGARITAS**  
**MEXICAN RESTAURANT**  
**FRANCHISE DISCLOSURE DOCUMENT**  
**REQUIRED FOR NEW YORK FRANCHISEES**

1. The following information is added to the cover page of the Franchise Disclosure Document:

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE APPROPRIATE STATE OR PROVINCIAL AUTHORITY. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

2. The following is added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10 year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including,

without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of the “Summary” sections of Item 17(c), titled “**Requirements for franchisee to renew or extend,**” and Item 17(m), entitled “**Conditions for franchisor approval of transfer**”:

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

4. The following language replaces the “Summary” section of Item 17(d), titled “**Termination by franchisee**”:

You may terminate the agreement on any grounds available by law.

5. The following is added to the end of the “Summary” sections of Item 17(v), titled “**Choice of forum**”, and Item 17(w), titled “**Choice of law**”:

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

THIS NEW YORK ADDENDUM APPLIES ONLY TO FRANCHISEES WHO ARE RESIDENTS OF NEW YORK OR LOCATE THEIR FRANCHISES IN NEW YORK.

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED FOR RHODE ISLAND FRANCHISEES**

The Rhode Island Securities Division requires the following specific disclosures to be made to prospective Rhode Island franchisees:

Item 17, "Renewal, Termination, Transfer and Dispute Resolution" shall be amended by adding the following disclosure:

In spite of the provisions of Item 17v and Item 17w of the Disclosure Document, except for Federal Arbitration Act and other federal law, any litigation or arbitration arising under the Franchise Agreement will take place in Rhode Island or other place mutually agreed to by the franchisee and franchisor to the extent required by Section 19-28.1-14 of the Rhode Island Franchise Investment Act which provides that "A provision in a franchise agreement or an area development agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim enforceable under this Act."

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED FOR VIRGINIA FRANCHISEES**

1. The following statements are added to Item 5 under the heading Initial Fees of the Virginia Disclosure Document:

“The Virginia State Corporation Commission’s Division of Securities and Retail Franchising 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 under the franchise agreement.”

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

The following statements are added to Item 17.h under the subheading Franchise Agreement of the Virginia Disclosure Document:

“Pursuant to Section 13.1.564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise agreement without reasonable cause. If any ground for default or termination stated in the franchise agreement does not constitute “reasonable cause” as that term may be defined in the Virginia Retail Franchising Act or laws of Virginia, that provision may not be enforceable.

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

The following statements are added to Item 17.h under the subheading Area Development Agreement of the Virginia Disclosure Document:

“Pursuant to Section 13.1.564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise agreement without reasonable cause. If any ground for default or termination stated in the area development agreement does not constitute “reasonable cause” as that term may be defined in the Virginia Retail Franchising Act or laws of Virginia, that provision may not be enforceable.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED FOR WASHINGTON FRANCHISEES**

1. Item 5 of the Disclosure Document is amended by the addition of the following paragraph:

“All initial fees and payments shall be deferred until such time as the franchisor has fulfilled its initial pre-opening obligations and the franchisee is open for business.”

2. Item 17 of the Disclosure Document is amended by the addition of the following paragraphs:

The State of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with the Franchisor, including the areas of termination and renewal of your Franchise Agreement. There may also be court decisions which may supersede the Franchise Agreement in your relationship with the Franchisor, including the areas of termination and renewal of your Franchise Agreement.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, rights or remedies under the Act such as a right to a jury trial may not be enforceable.

Transfer fees are collectable to the extent that they reflect the Franchisor's reasonable estimated or actual costs in effecting a transfer.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

**Effect of Washington Law on Termination**

If any provisions governing termination or non-renewal disclosed herein are inconsistent with Washington law, then Washington law shall apply. The applicable law reads as follows:

"Section 19.100.180. Without limiting the other provisions of this chapter, the following specific rights and prohibitions shall govern the relation between the franchisor or subfranchisor and the franchisees:

(2) For the purpose of this chapter and without limiting its general application, it shall be an unfair or deceptive act or practice or an unfair method of competition and therefore unlawful and violation of this chapter for any person to:

(i) Refuse to renew a Franchise Agreement without fairly compensating the franchisee for the fair market value, at the time of expiration of the Franchise Agreement, or the franchisee's inventory, supplies, equipment, and furnishings purchased from the franchisor and good will, exclusive of personalized materials which have no value to the franchisor, and inventory, supplies, equipment and furnishings not reasonably required in the conduct of the franchised business: PROVIDED, that compensation need not be made to a franchisee for good will if: (i) the franchisee has been given one year's notice of nonrenewal; and (ii) the franchisor agrees in writing not to enforce any covenant which restrains the franchisee from competing with the franchisor: PROVIDED FURTHER, that a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to franchisor.

(j) Terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include, without limitation, the failure of the franchisee to comply with lawful material provisions of the franchise or other agreement between the franchisor and the franchisee and to cure such default after being given written notice thereof and a reasonable opportunity, which in no event need be more than thirty days, to cure such default, or if such default cannot reasonably be cured within thirty days, the failure of the franchisee to initiate within thirty days substantial and continuing action to cure such default: PROVIDED, that after three willful and material breaches of the same term of the Franchise Agreement occurring within a twelve month period, for which the franchisee has been given notice and an opportunity to cure as provided in this subsection, the franchisor may terminate the Franchise Agreement upon any subsequent month period without providing notice or opportunity cure: PROVIDED FURTHER, that a franchisor may terminate a Franchise Agreement without prior notice or opportunity to cure a default if the franchisee: (i) is adjudicated bankrupt or insolvent; (ii) makes an assignment for the benefit of creditors or similar disposition of the assets of the franchised business; (iii) voluntarily abandons the franchised business; or (iv) is convicted of or pleads guilty or no contest to a charge of violating any law relating to the franchised business. Upon termination for good cause the franchisor shall purchase from the franchisee at a fair market value at the time of termination, the franchisee's inventory and supplies, exclusive of: (i) personalized materials which have no value to the franchisor; (ii) inventory and supplies not reasonably required in the conduct of the franchised business; and (iii) if the franchisee is to retain control of the premises of the franchised business, any inventory and supplies not purchased from the franchisor or on his express requirement: PROVIDED, that a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor."

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED FOR WISCONSIN FRANCHISEES**

Franchise Disclosure Document for Margaritas Franchising Corporation for use in the State of Wisconsin shall be amended as follows:

State Cover Page:

**THESE FRANCHISES HAVE BEEN REGISTERED UNDER THE WISCONSIN FRANCHISE INVESTMENT LAW. REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE COMMISSIONER OF SECURITIES OF WISCONSIN OR A FINDING BY THE COMMISSIONER THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.**

**THIS DISCLOSURE DOCUMENT AND THE FRANCHISE AGREEMENTS ARE SUBJECT TO THE WISCONSIN FRANCHISE INVESTMENT LAW.**

The Securities Commissioner of the State of Wisconsin requires that certain provisions contained in franchise documents be amended to be consistent with Wisconsin Fair Dealership Law, Wisconsin Statutes, Chapter 135 ("Fair Dealership Law"). To the extent that the Franchise Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

1. Item 17, Renewal, Termination, Transfer and Dispute Resolution, shall be amended by the addition of the following paragraphs at the conclusion of the Item 17 disclosures:

a. "To the extent that the provisions regarding renewal described in this section are inconsistent with the requirements of the Wisconsin Fair Dealership Law (which, among other things, grants You the right, in most circumstances, to 90 days prior written notice of termination and 60 days within which to remedy any claim deficiencies), the renewal provisions will be superseded by the requirements of the Wisconsin Fair Dealership Law and will have no force or effect."

b. "To the extent that the provisions regarding termination described in this section are inconsistent with the requirements of the Wisconsin Fair Dealership Law (which, among other things, grants You the right, in most circumstances, to 90 days prior written notice to termination and 60 days within which to remedy any claim deficiencies), the termination provision will be superseded by the requirements of the Wisconsin Fair Dealership Law and will have no force or effect."

c. "If the franchise agreement requires that it be governed by a state's law, other than the State of Wisconsin, to the extent that any provision of the franchise agreement conflicts with the Wisconsin Fair Dealership Law such provision shall be supersede by the law's requirement."

d. "Covenants not to compete during the term of and upon termination or expiration of a Franchise Agreement are enforceable only under certain conditions according to Wisconsin Law."

Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Wisconsin law applicable to the provision are met independent of the Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.

***EXHIBIT G***

***STATE SPECIFIC AMENDMENT TO THE AREA DEVELOPMENT AGREEMENT  
AND FRANCHISE AGREEMENT***

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
AREA DEVELOPMENT AGREEMENT  
REQUIRED FOR ILLINOIS FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Area Developer") is entered into simultaneously with the execution of the Area Development Agreement ("Agreement).

In recognition of the requirements of the Illinois Franchise Disclosure Act of 1987, as amended (the "Act"), this Area Development Agreement is amended as follows:

Illinois law governs the agreements between the parties to this franchise.

Section 4 of the Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void. However, a development agreement may provide for arbitration outside of Illinois.

Section 41 of the Act provides that any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with the Act or any other law of Illinois is void.

Your rights upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Act.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Amendment to the Area Development Agreement in duplicate on the day and year first above written.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**AREA DEVELOPER:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE AGREEMENT  
REQUIRED FOR ILLINIOS FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Franchisee") is entered into simultaneously with the execution of the Franchise Agreement ("Agreement).

In recognition of the requirements of the Illinois Franchise Disclosure Act of 1987, as amended (the "Act"), this Franchise Agreement is amended as follows:

Illinois law governs the agreements between the parties to this franchise.

Section 4 of the Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void. However, a franchise agreement may provide for arbitration outside of Illinois.

Section 41 of the Act provides that any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with the Act or any other law of Illinois is void.

Your rights upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Act.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Amendment to the Franchise Agreement in duplicate on the day and year first above written.

[SIGNATURES ON THE FOLLOWING PAGE]

**ATTEST:**

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

Date: \_\_\_\_\_

**ATTEST/WITNESS:**

**FRANCHISEE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_



**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
AREA DEVELOPMENT AGREEMENT  
REQUIRED FOR INDIANA FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Area Developer") is entered into simultaneously with the execution of the Area Development Agreement ("Agreement).

**INDIANA LAW MODIFICATIONS**

1. The Indiana Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with Indiana law, including the Indiana Franchise Act, Ind. Code Ann. §§ 1-51 (1994) and the Indiana Deceptive Franchise Practices Act, Ind. Code Ann. § 23-27 (1985). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. The Indiana Deceptive Franchise Practices Act provides rights to Franchisee concerning non-renewal and termination of the Franchise Agreement. To the extent the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.
- b. If the Franchisee is required in the Franchise Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule of order under the Act, such release shall exclude claims arising under the Indiana Deceptive Franchise Practices Act and the Indiana Franchises Act, and such acknowledgements shall be void with respect to claims under the Act.
- c. If the Franchise Agreement contains covenants not to compete upon expiration or termination of the Franchise Agreement that are inconsistent with the Indiana Deceptive Franchise Practices Act, the requirements of the Act will control.
- d. The Indiana Deceptive Franchise Practices Act provides that substantial modification of the Franchise Agreement by Franchisor requires written consent of the Franchisee. If the Franchise Agreement contains provisions that are inconsistent with this requirement, the Act will control.
- e. If the Franchise Agreement requires litigation/arbitration to be conducted in a forum other than the State of Indiana, the requirement may be unenforceable as a limitation on litigation under the Indiana Deceptive Franchise Practices Act §§ 23-2.2.7(10).
- f. If the Franchise Agreement requires that it be governed by a state's law, other than the State of Indiana, to the extent that such law conflicts with the Indiana Deceptive Franchise Practices Act and the Indiana Franchises Act, the Acts will control.

- g. The Indiana Deceptive Franchise Practices Act provides rights to Franchisee concerning the waiver of claims or rights. To the extent the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.
- h. The Indiana Deceptive Franchise Practices Act provides rights to Franchisee concerning the time period to bring an action against the Franchisor. To the extent the Agreement contains a provision that is inconsistent with the Act, the Act will control.
- i. The Indiana Deceptive Franchise Practices Act prohibits the Franchisor from operating a substantially identical business to that of the Franchisee's within the Franchisee's territory, regardless of trade name. To the extent the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.
- j. The Indiana Deceptive Franchise Practice Act excludes any indemnification for liability caused by the Franchisee's proper reliance on or use of procedures or materials provided by the Franchisor. To the extent the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.

2. Indiana Code § 23-2-2.5-9(2) requires us to give you a copy of the Franchise Disclosure Document at the earlier of: (i) 10 days prior to signing the Franchise Agreement; or (ii) 10 days prior to our receipt of any consideration.

3. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Indiana Deceptive Practices Act and the Indiana Franchises Act, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Amendment to the Area Development Agreement in duplicate on the day and year first above written.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**AREA DEVELOPER:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE AGREEMENT  
REQUIRED FOR INDIANA FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Franchisee") is entered into simultaneously with the execution of the Franchise Agreement ("Agreement).

**INDIANA LAW MODIFICATIONS**

1. The Indiana Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with Indiana law, including the Indiana Franchise Act, Ind. Code Ann. §§ 1-51 (1994) and the Indiana Deceptive Franchise Practices Act, Ind. Code Ann. § 23-27 (1985). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. The Indiana Deceptive Franchise Practices Act provides rights to Franchisee concerning non-renewal and termination of the Franchise Agreement. To the extent the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.
- b. If the Franchisee is required in the Franchise Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule of order under the Act, such release shall exclude claims arising under the Indiana Deceptive Franchise Practices Act and the Indiana Franchises Act, and such acknowledgements shall be void with respect to claims under the Act.
- c. If the Franchise Agreement contains covenants not to compete upon expiration or termination of the Franchise Agreement that are inconsistent with the Indiana Deceptive Franchise Practices Act, the requirements of the Act will control.
- d. The Indiana Deceptive Franchise Practices Act provides that substantial modification of the Franchise Agreement by Franchisor requires written consent of the Franchisee. If the Franchise Agreement contains provisions that are inconsistent with this requirement, the Act will control.
- e. If the Franchise Agreement requires litigation/arbitration to be conducted in a forum other than the State of Indiana, the requirement may be unenforceable as a limitation on litigation under the Indiana Deceptive Franchise Practices Act §§ 23-2.2.7(10).
- f. If the Franchise Agreement requires that it be governed by a state's law, other than the State of Indiana, to the extent that such law conflicts with the Indiana Deceptive Franchise Practices Act and the Indiana Franchises Act, the Acts will control.

- g. The Indiana Deceptive Franchise Practices Act provides rights to Franchisee concerning the waiver of claims or rights. To the extent the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.
- h. The Indiana Deceptive Franchise Practices Act provides rights to Franchisee concerning the time period to bring an action against the Franchisor. To the extent the Agreement contains a provision that is inconsistent with the Act, the Act will control.
- i. The Indiana Deceptive Franchise Practices Act prohibits the Franchisor from operating a substantially identical business to that of the Franchisee's within the Franchisee's territory, regardless of trade name. To the extent the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.
- j. The Indiana Deceptive Franchise Practice Act excludes any indemnification for liability caused by the Franchisee's proper reliance on or use of procedures or materials provided by the Franchisor. To the extent the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.

2. Indiana Code § 23-2-2.5-9(2) requires us to give you a copy of the Franchise Disclosure Document at the earlier of: (i) 10 days prior to signing the Franchise Agreement; or (ii) 10 days prior to our receipt of any consideration.

3. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Indiana Deceptive Practices Act and the Indiana Franchises Act, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Amendment to the Franchise Agreement in duplicate on the day and year first above written.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST/WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FRANCHISEE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
AREA DEVELOPMENT AGREEMENT  
REQUIRED FOR MARYLAND FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Area Developer") is entered into simultaneously with the execution of the Area Development Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Area Development Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to Area Developer was made in the State of Maryland; **(B)** Area 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. The following sentences are added to the end of Section 4.1:

Notwithstanding the foregoing, in the State of Maryland, All development fees and initial payments by area developers shall be deferred until the first franchise under the development agreement opens.

3. The following sentences are added to the end of Section 4.2:

Notwithstanding the foregoing, in the State of Maryland, Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement.

4. The following sentence is added to the end of Sections 8.3.4 and 9:

Any provision requiring you to sign a general release of claims against Margaritas Franchising Corporation does not release any claim you may have under the Maryland Franchise Registration and Disclosure Law.

5. The following sentence is added to the end of Section 18.2:

Notwithstanding the foregoing, you may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

6. The following sentence is added to the end of Section 18.3:

Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

7. The following sentence is added to the end of Section 20:

Section 14-226 of the Maryland Franchise Registration and Disclosure Law prohibits a franchisor from requiring a prospective Area Developer to assent to any release, estoppel, or waiver of liability as a condition of purchasing a franchise. 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.

- 8. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Area Development Agreement.
- 9. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently of this Addendum.
- 10. 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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
- 11. Except as expressly modified by this Addendum, the Area Development Agreement remains unmodified and in full force and effect.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST/WITNESS:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**AREA DEVELOPER:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE AGREEMENT  
REQUIRED FOR MARYLAND FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Franchise Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Franchisee") is entered into simultaneously with the execution of the Franchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Franchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of the franchise to Franchisee was made in the State of Maryland; **(B)** Franchisee is a resident of the State of Maryland; and/or **(C)** your Margaritas Restaurant will be located or operated in the State of Maryland.
  
2. The following sentence is added to the end of Sections 2.2.6, 15.3.5 and 16:  
  
Any provision requiring you to sign a general release of claims against Margaritas Franchising Corporation does not release any claim you may have under the Maryland Franchise Registration and Disclosure Law.
  
3. The following sentences are added to the end of Section 5.1:  
  
Notwithstanding the foregoing, in the State of Maryland, Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement.
  
4. The following sentence is added to the end of Section 29.2:  
  
Notwithstanding the foregoing, you may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.
  
5. The following sentence is added to the end of Section 29.3:  
  
Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.
  
6. The following sentence is added to the end of Section 31:  
  
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. 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.
  
7. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.

- 8. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently of this Addendum.
- 9. 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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
- 10. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FRANCHISEE:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
AREA DEVELOPMENT AGREEMENT  
REQUIRED FOR MINNESOTA FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Area Developer") is entered into simultaneously with the execution of the Area Development Agreement ("Agreement).

As to franchises governed by the Minnesota franchise laws, If any of the terms of the Area Development Agreement are inconsistent with the terms below, the terms below control.

1. Minn. Stat. §80C.21 and Minn. Rule 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreements can abrogate or reduce (1) any of the franchisee's rights as provided for in Minnesota Statutes, Chapter 80C, or (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

2. With respect to franchises governed by Minnesota law, the franchisor will comply with Minn. Stat. Sec. 80C.14 Subds. 3, 4, and 5 which require (except in certain specified cases), that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the franchise agreement and that consent to the transfer of the franchise will not be unreasonably withheld.

3. The franchisor will protect the franchisee's rights to use the trademarks, service marks, trade names, logotypes or other commercial symbols or indemnify the franchisee from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the name.

Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to Minnesota Statutes 80C.12, Subd. 1(g).

4. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.

5. The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See Minn. Rules 2860.4400J.

6. NSF checks and related interest and attorneys' fees are governed by Minnesota Statute § 604.113, which puts a cap of \$30 on initial service charges and requires notice and opportunity to cure prior to assessing interest and attorneys' fees.

7. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a release that would relieve any person from liability imposed by Minnesota Statutes, Chapter 80C.

8. Minnesota Rules 2860.4400(G) prohibits a franchisor from imposing on a franchisee

by contract or rule, whether written or oral, any standard of conduct that is unreasonable.

9. 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 in connection with this franchise.

Also, a court will determine if a bond is required.

The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Amendment to the Area Development Agreement in duplicate on the day and year first above written.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST/WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**AREA DEVELOPER:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE AGREEMENT  
REQUIRED FOR MINNESOTA FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Franchisee") is entered into simultaneously with the execution of the Franchise Agreement ("Franchise Agreement").

As to franchises governed by the Minnesota franchise laws, If any of the terms of the Franchise Agreement are inconsistent with the terms below, the terms below control.

1. Section 5.1 of the Franchise Agreement is amended by adding the following: All initial franchise fees shall be deferred until such time as the franchisee is open for business.
2. Minn. Stat. §80C.21 and Minn. Rule 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreements can abrogate or reduce (1) any of the franchisee's rights as provided for in Minnesota Statutes, Chapter 80C, or (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.
3. With respect to franchises governed by Minnesota law, the franchisor will comply with Minn. Stat. Sec. 80C.14 Subds. 3, 4, and 5 which require (except in certain specified cases), that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the franchise agreement and that consent to the transfer of the franchise will not be unreasonably withheld.
4. The franchisor will protect the franchisee's rights to use the trademarks, service marks, trade names, logotypes or other commercial symbols or indemnify the franchisee from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the name.  
  
Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to Minnesota Statutes 80C.12, Subd. 1(g).
5. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.
6. The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See Minn. Rules 2860.4400J.
7. NSF checks and related interest and attorneys' fees are governed by Minnesota Statute § 604.113, which puts a cap of \$30 on initial service charges and requires notice and opportunity to cure prior to assessing interest and attorneys' fees.
8. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to

assent to a release that would relieve any person from liability imposed by Minnesota Statutes, Chapter 80C.

9. Minnesota Rules 2860.4400(G) prohibits a franchisor from imposing on a franchisee by contract or rule, whether written or oral, any standard of conduct that is unreasonable.

10. 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 in connection with this franchise.

Also, a court will determine if a bond is required.

The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Amendment to the Franchise Agreement in duplicate on the day and year first above written.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FRANCHISEE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
AREA DEVELOPMENT AGREEMENT  
REQUIRED FOR NEW YORK FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ ("Development Agreement") between Margaritas Franchising Corporation and \_\_\_\_\_ ("Area Developer"), is entered into simultaneously with the execution of the Development Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into, the Area Development Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to you was made in the State of New York; **(B)** you are a resident of the State of New York; and/or **(C)** part or all of the Development Area is located in the State of New York.
2. Any provision in the Development Agreement that is inconsistent with the New York General Business Law, Article 33, Sections 680 - 695 may not be enforceable.
3. The following sentence is added to Section 7:  
  
We will not assign our rights under this Agreement, except to an assignee who in our good faith and judgment is willing and able to assume our obligations under this Agreement.
4. The following sentence is added to the end of Sections 8.3.4 and 9:  
  
Any provision in this Agreement requiring your to sign a general release of claims against us does not release any claim you may have under New York General Business Law, Article 33, Sections 680-695.
5. The following sentence is added to the end of Section 18.1:  
  
Notwithstanding the foregoing, the New York Franchises Law shall govern any claim arising under that law.
6. The following sentence is added to the end of Section 19.5:  
  
Our right to obtain injunctive relief exists only after proper proofs are made and the appropriate authority has granted such relief.
7. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Development Agreement.
8. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of the New York General Business Law are met independently of this Addendum.

9. Except as expressly modified by this Addendum, the Area Development Agreement remains unmodified and in full force and effect.

**ATTEST:**

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

**AREA DEVELOPER:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE AGREEMENT  
REQUIRED FOR NEW YORK FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Franchise Agreement dated \_\_\_\_\_ ("Franchise Agreement") between Margaritas Franchising Corporation and Franchisee is entered into simultaneously with the execution of the Franchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into, the Franchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to you was made in the State of New York; **(B)** you are a resident of the State of New York; and/or **(C)** the Franchised Restaurant will be located or operated in the State of New York.
2. Any provision in the Franchise Agreement that is inconsistent with the New York General Business Law, Article 33, Sections 680 – 695, may not be enforceable.
3. The following sentence is added to the end of Sections 2.2.6, 15.3.5 and 16:  
  
Any provision in this Agreement requiring you to sign a general release of claims against us does not release any claim you may have under New York General Business Law, Article 33, Sections 680-695.
4. The following sentence is added to Section 14:  
  
We will not assign our rights under this Agreement, except to an assignee who in our good faith and judgment is willing and able to assume our obligations under this Agreement.
5. The following sentence is added to the end of Section 29.1:  
  
Notwithstanding the foregoing, the New York Franchises Law shall govern any claim arising under that law.
6. The following sentence is added to the end of Section 30.5:  
  
Our right to obtain injunctive relief exists only after proper proofs are made and the appropriate authority has granted such relief.
7. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.
8. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of the New York General Business Law are met independently of this Addendum.

9. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

**ATTEST:**

**MARGARITAS FRANCHISING CORPORATION**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

**FRANCHISEE:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
AREA DEVELOPMENT AGREEMENT  
REQUIRED FOR RHODE ISLAND FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Area Developer") is entered into simultaneously with the execution of the Area Development Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Area Development Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to Area Developer was made in the State of Rhode Island; **(B)** Area Developer is a resident of the State of Rhode Island; and/or **(C)** part or all of the Development Area is located in the State of Rhode Island.
2. The following sentence is added to Section 18.2:  
  
Section 19-28.1-14 of the Rhode Island Franchise Investment Act provides that: "A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act."
3. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Area Development Agreement.
4. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of the Rhode Island Franchise Investment Act are met independently of this Addendum.
5. Except as expressly modified by this Addendum, the Area Development Agreement remains unmodified and in full force and effect.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST/WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**AREA DEVELOPER:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS MEXICAN  
RESTAURANT FRANCHISE AGREEMENT  
REQUIRED FOR RHODE ISLAND FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Franchise Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Franchisee") is entered into simultaneously with the execution of the Franchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Franchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of the franchise to Franchisee was made in the State of Rhode Island; **(B)** Franchisee is a resident of the State of Rhode Island; and/or **(C)** your Margaritas Restaurant will be located or operated in the State of Rhode Island.
  
2. The following sentence is added to Section 29.2:  
  
Section 19-28.1-14 of the Rhode Island Franchise Investment Act provides that: "A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act."
  
3. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.
  
4. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of the Rhode Island Franchise Investment Act are met independently of this Addendum.
  
5. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Margaritas

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FRANCHISEE:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
AREA DEVELOPMENT AGREEMENT  
REQUIRED FOR VIRGINIA FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Area Developer") is entered into simultaneously with the execution of the Area Development Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Area Development Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to Area Developer was made in the Commonwealth of Virginia; **(B)** Area Developer is a resident of the Commonwealth of Virginia; and/or **(C)** part or all of the Development Area is located in the Commonwealth of Virginia.

2. The following sentence is added to the end of Section 4.1:

Notwithstanding the foregoing, the Virginia State Corporation Commission's Division of Securities and Retail Franchising requires us, for each Franchised Restaurant to be developed under the Development Agreement, to defer payment of the initial franchise fee and other initial payments (including the portion of the Development Fee applicable to each Franchised Restaurant) owed by you to us until we have completed our pre-opening obligations under the Franchise Agreement governing the establishment and operation of the applicable Franchised Restaurant.

3. The following sentence is added to the end of Section 4.2:

Notwithstanding the foregoing, the Virginia State Corporation Commission's Division of Securities and Retail Franchising requires us, for each Franchised Restaurant to be developed under the Development Agreement, to defer payment of the initial franchise fee and other initial payments (including the portion of the Development Fee applicable to each Franchised Restaurant) owed by you to us until we have completed our pre-opening obligations under the Franchise Agreement governing the establishment and operation of the applicable Franchised Restaurant.

4. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Area Development Agreement.

5. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of the Virginia Retail Franchising Act are met independently of this Addendum.

6. 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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

7. Except as expressly modified by this Addendum, the Area Development Agreement remains unmodified and in full force and effect.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**AREA DEVELOPER:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE AGREEMENT  
REQUIRED FOR VIRGINIA FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Franchise Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_

("Franchisee") is entered into simultaneously with the execution of the Franchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Franchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of the franchise to Franchisee was made in the Commonwealth of Virginia; **(B)** Franchisee is a resident of the Commonwealth of Virginia; and/or **(C)** your Margaritas Restaurant will be located or operated in the Commonwealth of Virginia.
  
2. The following sentence is added to the end of Section 5.1:  
  

Notwithstanding the foregoing, the Virginia State Corporation Commission's Division of Securities and Retail Franchising requires us to defer payment of the initial franchise fee and other initial payments owed by you to us until we have completed our pre-opening obligations under this Agreement.
  
3. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.
  
4. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of the Virginia Retail Franchising Act are met independently of this Addendum.
  
5. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ATTEST: MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

**FRANCHISEE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
AREA DEVELOPMENT AGREEMENT  
REQUIRED FOR WASHINGTON FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Area Developer") is entered into simultaneously with the execution of the Area Development Agreement.

**WASHINGTON LAW MODIFICATIONS.**

RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with the Franchisor, including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Franchise Agreement in your relationship with the Franchisor, including the areas of termination and renewal of your Franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site shall be either in the State of Washington or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act, except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act or rights or remedies under the Act, such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the Franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed, and delivered this Amendment to the Area Development Agreement on the same date as that on which the Franchise Agreement was executed.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST/WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**AREA DEVELOPER:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE AGREEMENT**

**REQUIRED FOR WASHINGTON FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Franchise Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Franchisee") is entered into simultaneously with the execution of the Franchise Agreement.

Section 5.1 of the Franchise Agreement, under the heading "Initial Franchise Fee" shall be deleted in its entirety, and shall have no force or effect; and the following paragraph shall be substituted in lieu thereof:

"You must pay to us an initial franchise fee in the amount of \$40,000.00 ("Initial Franchise Fee"). Such initial franchise fee shall be due and payable in full immediately upon our fulfilling our initial pre-opening obligations to you and you open the franchise business. You understand and acknowledge that the Initial Franchise Fee is non-refundable and is fully earned by Us at the time the parties execute this Agreement."

**WASHINGTON LAW MODIFICATIONS**

The state of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with the Franchisor, including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Franchise Agreement in your relationship with the Franchisor, including the areas of termination and renewal of your Franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site shall be either in the State of Washington or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act, except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act or rights or remedies under the Act, such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the Franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted

annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed, and delivered this Amendment to the Franchise Agreement on the same date as that on which the Franchise Agreement was executed.

**ATTEST:**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FRANCHISEE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
AREA DEVELOPMENT AGREEMENT  
REQUIRED FOR WISCONSIN FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Area Developer") is entered into simultaneously with the execution of the Area Development Agreement ("Agreement).

1. The Securities Commissioner of the State of Wisconsin requires that certain provisions contained in franchise documents be amended to be consistent with the Wisconsin Fair Dealership Law, Wisconsin Statutes, Chapter 135. To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. To the extent that the provisions of this Agreement regarding renewal are inconsistent with the requirements of the Wisconsin Fair Dealership Law (which, among other things, grants Franchisee the right, in most circumstances, to 90 days prior written notice to termination and 60 days within which to remedy any claims deficiencies), said renewal provision will be superseded by the requirement of the Wisconsin Fair Dealership Law and will have no force or effect."
- b. To the extent that the provision of this Agreement regarding termination are inconsistent with requirements of the Wisconsin Fair Dealership Law (which, among other things, grants Franchisee the right, in most circumstances to 90 days prior written notice of termination and 60 days within which to remedy any claimed deficiencies), said termination provisions will be superseded by the requirements of the Wisconsin Fair Dealership Law and will have no force or effect.
- c. If the franchise agreement requires that it be governed by a state's law, other than the State of Wisconsin, to the extent that any provision of the franchise agreement conflicts with the Wisconsin Fair Dealership Law such provision shall be supersede by the law's requirement.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Wisconsin law applicable to the provision are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Amendment to the Area Development Agreement in duplicate on the day and year first above written.

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**AREA DEVELOPER:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE TIO JUAN'S MARGARITAS  
MEXICAN RESTAURANT  
FRANCHISE AGREEMENT  
REQUIRED FOR WISCONSIN FRANCHISEES**

This Addendum to the Tio Juan's Margaritas Mexican Restaurant Area Development Agreement dated \_\_\_\_\_ between Margaritas Franchising Corporation and \_\_\_\_\_ ("Franchisee") is entered into simultaneously with the execution of the Franchise Agreement ("Agreement).

1. The Securities Commissioner of the State of Wisconsin requires that certain provisions contained in franchise documents be amended to be consistent with the Wisconsin Fair Dealership Law, Wisconsin Statutes, Chapter 135. To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. To the extent that the provisions of this Agreement regarding renewal are inconsistent with the requirements of the Wisconsin Fair Dealership Law (which, among other things, grants Franchisee the right, in most circumstances, to 90 days prior written notice to termination and 60 days within which to remedy any claims deficiencies), said renewal provision will be superseded by the requirement of the Wisconsin Fair Dealership Law and will have no force or effect."
- b. To the extent that the provision of this Agreement regarding termination are inconsistent with requirements of the Wisconsin Fair Dealership Law (which, among other things, grants Franchisee the right, in most circumstances to 90 days prior written notice of termination and 60 days within which to remedy any claimed deficiencies), said termination provisions will be superseded by the requirements of the Wisconsin Fair Dealership Law and will have no force or effect.
- c. If the franchise agreement requires that it be governed by a state's law, other than the State of Wisconsin, to the extent that any provision of the franchise agreement conflicts with the Wisconsin Fair Dealership Law such provision shall be supersede by the law's requirement.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Wisconsin law applicable to the provision are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Amendment to the Franchise Agreement in duplicate on the day and year first above written.

[signatures on following page]

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Corporate Seal]

**ATTEST/WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MARGARITAS FRANCHISING CORPORATION:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FRANCHISEE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

## ***EXHIBIT H***

### **SPOUSAL NON-DISCLOSURE AND NON-COMPETITION AGREEMENT**

This Agreement is made and entered into \_\_\_\_\_ between MARGARITAS FRANCHISING CORP, a Delaware corporation, with its principal place of business at 273 Locust Street, Suite 200, Dover, New Hampshire 03820 (“Franchisor”) and \_\_\_\_\_, a/an \_\_\_\_\_ with its principal place of business at \_\_\_\_\_ (“Franchisee”) and \_\_\_\_\_, the spouse or domestic partner of an owner of Franchisee (“Signer”) with a primary residence at \_\_\_\_\_.

#### **RECITALS**

WHEREAS, Franchisor has developed, is using and is the owner of all rights in a unique system (hereinafter “MARGARITAS RESTAURANTS SYSTEM”) for the development and operation of a business which provides \_\_\_\_\_ under the trade name and mark Tio Juan’s Margaritas Mexican Restaurant (hereinafter “Tio Juan’s Margaritas Mexican Restaurant”);

WHEREAS, MARGARITAS RESTAURANTS SYSTEM includes but is not limited to certain trade names, trademarks, trade dress and logos including, but not limited to, the mark Tio Juan’s Margaritas Mexican Restaurant, service marks, trade symbols, trade dress, signs, slogans, associated logos, designs, emblems, URLs, domain names, Website addresses, email addresses, digital cellular addresses, wireless Web addresses and the like and copyrights and such other trade names and trademarks as Franchisor may develop in the future for the purposes of identifying MARGARITAS RESTAURANTS SYSTEM, and such other distinguishing characteristics of MARGARITAS RESTAURANTS SYSTEM including, without limitation, distinctive sales and marketing procedures; knowledge and procedures for operating a food service business; management and financial control methods; and training and assistance, all of which may be changed, improved and further developed by Franchisor from time to time (“Trade Secrets”);

WHEREAS, Franchisor’s Trade Secrets provide economic advantages to Franchisor and are not generally known to or readily ascertainable by proper means by Franchisor’s competitors who could obtain economic value from knowledge and use of Franchisor’s Trade Secrets;

WHEREAS, Franchisor has taken and intends to take all reasonable steps to maintain the confidentiality and secrecy of Franchisor’s Trade Secrets;

WHEREAS, Franchisor and Franchisee desire to enter into a Franchise Agreement which will grant Franchisee a limited right to operate a Franchised Business within a territory using MARGARITAS RESTAURANTS SYSTEM and Franchisor’s Trade Secrets for a period defined in the Franchise Agreement (“Franchise Agreement”);

WHEREAS, Franchisor and Franchisee have agreed in the Franchise Agreement on the importance to Franchisor and to Franchisee and other licensed users of MARGARITAS RESTAURANTS SYSTEM of restricting use, access and dissemination of Franchisor’s Trade Secrets; and

WHEREAS, it is anticipated that Signer may have access to learn Franchisor’s Trade Secrets as Franchisee develops and maintains Franchisee’s Business using MARGARITAS RESTAURANTS SYSTEM

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties agree as follows:

1. Franchisee may disclose to Signer some or all of Franchisor's Trade Secrets relating to MARGARITAS RESTAURANTS SYSTEM.

2. Signer shall receive Franchisor's Trade Secrets in confidence, maintain them in confidence, and shall use them only in connection with the development and/or maintenance by Franchisee of the Franchised Business using MARGARITAS RESTAURANTS SYSTEM for so long as Franchisee is licensed by Franchisor to use MARGARITAS RESTAURANTS SYSTEM.

3. Signer shall not at any time make copies of any documents or compilations containing some or all of Franchisor's Trade Secrets without the express written permission of Franchisor.

4. Signer shall not disclose or permit the disclosure of Franchisor's Trade Secrets to anyone.

5. That all information and materials, including without limitation, specifications, techniques and compilations of data which Franchisor shall designate as confidential shall be deemed Franchisor's Trade Secrets for the purposes of this Agreement.

6. Signer shall not, directly or indirectly, do any act or omit to do any act, which would or would likely be injurious or prejudicial to the goodwill associated with MARGARITAS RESTAURANTS SYSTEM.

7. In order to protect the goodwill and unique qualities of MARGARITAS RESTAURANTS SYSTEM and the confidentiality and value of Franchisor's Trade Secrets, and in consideration for the disclosure to Signer of Franchisor's Trade Secrets, Signer further undertakes and covenants that, during the time Franchisee is a franchisee of Franchisor and for the two (2) years following the termination or expiration of Franchisee's Franchise Agreement, Signer will not:

(a) Directly or indirectly, for himself/herself or through, on behalf of or in conjunction with any person, partnership or business entity, engage in or acquire any financial or beneficial interest in (including interest in business entities, partnerships, trusts, unincorporated associations or joint ventures), advise, help or make loans to any entity involved in business which is the same as or similar to that conducted by Tio Juan's Margaritas Mexican Restaurant which business is, or is intended to be located, within the United States; or

(b) Divert or attempt to divert, directly or indirectly, any business, business opportunity or client of Franchisee's Franchised Business(s) to any competitor.

8. Franchisee undertakes to use Franchisee's best efforts to ensure that Signer acts as required by this Agreement.

9. Signer agrees that in the event of a breach of this Agreement, Franchisor would be irreparably injured and be without an adequate remedy at law. Therefore, in the event of such a breach, or threatened or attempted breach of any of the provisions thereof, Franchisor shall be entitled to enforce the provisions of this Agreement against Franchisee and Signer, and may seek, in addition to any other remedies which are made available to it at law or in equity, including the right to terminate the Franchise

Agreement, a temporary and /or permanent injunction and a decree for the specific performance of the terms of this Agreement, without being required to furnish a bond or other security.

10. Signer agrees that the period during which the post-termination/expiration restrictions above apply shall be extended uninterrupted by the length of any period of time during which Signer was in violation of such restrictions.

11. This Agreement shall be governed by and construed under the laws of Massachusetts.

12. If any Court or other tribunal having jurisdiction to determine the validity or enforceability of this Agreement determines that it would be unenforceable as written, its provisions shall be determined to be withheld, modified or limited to such extent or in such manner as is necessary for it to be valid and enforceable to the greatest extent possible.

IN WITNESS WHEREOF, the undersigned have entered into this Agreement as witnessed by their signatures below.

FRANCHISEE

By: \_\_\_\_\_  
Name:  
Title:  
Date: \_\_\_\_\_

FRANCHISOR

By: \_\_\_\_\_  
Name:  
Title:  
Date: \_\_\_\_\_

SIGNER

By: \_\_\_\_\_  
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:

<b>State</b>	<b>Effective Date</b>
Indiana	<del>May 3, 2023</del> <u>Pending</u>
Maryland	<del>October 2, 2023</del> <u>Pending</u>
Michigan	May 3, 2023
Minnesota	<del>August 9, 2023</del> <u>Pending</u>
New York	<del>May 16, 2023</del> <u>Pending</u>
Rhode Island	<del>September 17, 2023</del> <u>Pending</u>
Virginia	<del>June 13, 2023</del> <u>Pending</u>
Wisconsin	<del>May 2, 2023</del> <u>Pending</u>

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.

**EXHIBIT I  
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 Margaritas Franchising Corp. offers you a franchise, Margaritas Franchising Corp. 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 and Rhode Island require that we give 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.

Michigan, Oregon and Wisconsin require that we give you this Disclosure Document at least 10 business days before the execution of any franchise or other agreement or the payment of any consideration, whichever occurs first.

If Margaritas Franchising Corp. 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, DC 20580 and to the appropriate state administrator listed in Exhibit A.

Franchise Seller: Name - \_\_\_\_\_; Address - \_\_\_\_\_; and Phone No. - \_\_\_\_\_

Issued: April ~~28~~<sup>19</sup>, 202~~3~~<sup>4</sup>.

See Exhibit A for our registered agents authorized to receive Service of Process.

I have received a Franchise Disclosure Document issued on April ~~28~~<sup>19</sup>, 202~~3~~<sup>4</sup>. This disclosure document included the following exhibits: A. List of State Administrators and Agents for Service of Process; B. Area Development Agreement; C. Franchise Agreement; D. Financial Statements; and E. Table of Contents – Operating Manual; F. State Specific Addenda to the Disclosure Document; G. State Specific Amendments to the Franchise Agreement and Area Development Agreement; H. Spousal Non-Disclosure and Non-Competition Agreement.

\_\_\_\_\_  
Date Disclosure Document Received

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City                      State                      Zip Code

\_\_\_\_\_  
Area Code                      Phone Number

\_\_\_\_\_  
Date Disclosure Document Received

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City                      State                      Zip Code

\_\_\_\_\_  
Area Code                      Phone Number

**TO BE RETAINED BY YOU**

**EXHIBIT I**

**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 Margaritas Franchising Corp. offers you a franchise, Margaritas Franchising Corp. 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 and Rhode Island require that we give 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.

Michigan, Oregon and Wisconsin require that we give you this Disclosure Document at least 10 business days before the execution of any franchise or other agreement or the payment of any consideration, whichever occurs first.

If Margaritas Franchising Corp. 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, DC 20580 and to the appropriate state administrator listed in Exhibit A.

Franchise Seller: Name - \_\_\_\_\_; Address - \_\_\_\_\_; and Phone No. - \_\_\_\_\_

Issued: April 28~~19~~, 2023~~4~~.

See Exhibit A for our registered agents authorized to receive Service of Process.

I have received a Franchise Disclosure Document issued on April 28~~19~~, 2023~~4~~. This disclosure document included the following exhibits: A. List of State Administrators and Agents for Service of Process; B. Area Development Agreement; C. Franchise Agreement; D. Financial Statements; and E. Table of Contents – Operating Manual; F. State Specific Addenda to the Disclosure Document; G. State Specific Amendments to the Franchise Agreement and Area Development Agreement; H. Spousal Non-Disclosure and Non-Competition Agreement.

\_\_\_\_\_  
Date Disclosure Document Received

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City                      State                      Zip Code

\_\_\_\_\_  
Area Code                      Phone Number

\_\_\_\_\_  
Area Code                      Phone Number

\_\_\_\_\_  
Date Disclosure Document Received

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City                      State                      Zip Code

\_\_\_\_\_  
Area Code                      Phone Number

\_\_\_\_\_  
Area Code                      Phone Number

**TO BE RETURNED TO MARGARITAS FRANCHISING CORP.**