

## FRANCHISE DISCLOSURE DOCUMENT



**Nathan's Famous Systems, Inc.**  
(a Delaware corporation)  
One Jericho Plaza - Wing A, 2nd Floor  
Jericho, New York 11753  
1-800-Nathans / 1-516-338-8500  
FL@NathansFamous.com  
www.NathansFamous.com

We offer franchises for the operation of "Nathan's Famous" restaurants. "Nathan's Famous" restaurants are fast-service restaurants operating in buildings that feature our trade dress. A "Nathan's Famous" restaurant offers customers our proprietary hot dogs (made with our proprietary spice formula) as well as crinkle-cut french fries, hamburgers, assorted sandwiches, platters, and other fast-service menu items.

The estimated total initial investment necessary to begin operation of a "Nathan's Famous" restaurant franchise varies depending on the type of restaurant operated: \$554,350 to \$2,032,610 for a "traditional" free-standing restaurant; \$359,100 to \$1,146,860 for an "in-line" restaurant or restaurant operated in a "food court;" \$103,850 to \$305,000 for a restaurant operated from a kiosk (and, if you decide to build the optional preparation area, your additional costs for the preparation area will range from \$21,000 to \$90,000), and \$82,200 to \$364,100 for a restaurant operated as a Mobile Unit. This includes an initial fee of \$30,000 (\$15,000 for restaurants operated from a kiosk, Mobile Unit or a limited menu restaurant) (see Item 5 for details) that you must pay to us. These figures do not include co-branding costs (see below).

If you wish to add an "Arthur Treacher's Co-Branded Operation" to your "Nathan's Famous" restaurant, you will incur additional estimated costs of \$19,500 to \$38,000.

If you sign an area development agreement, your estimated initial investment under that agreement will vary depending on how many restaurants you will develop. This includes a development fee that you must pay to us, the amount of which will be subject to our mutual discussion and agreement, and will vary under the circumstances taking into account a number of factors. See Item 5 for details.

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 Eric Gatoff at the address and telephone number listed above.

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 at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC's home page at

[www.ftc.gov](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.

The issuance date of this Franchise Disclosure Document is July 21, 2023

## STATE COVER PAGE

### 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:

<b>QUESTION</b>	<b>WHERE TO FIND INFORMATION</b>
<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 or Exhibit H.
<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 N 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 Nathan's Famous 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 Nathan's Famous Restaurant franchisee?</b>	Item 20 or Exhibit H 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 K.

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 us by mediation and litigation in New York. Out of state mediation and litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate and litigate in New York than in your own state.

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.

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## Item 1

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

#### The Franchisor

Nathan's Famous Systems, Inc. ("we" or "us") was incorporated in Delaware on December 8, 1993, and we maintain our principal place of business at One Jericho Plaza - Wing A, 2nd Floor, Jericho, New York 11753 (516/338-8500). We are a wholly-owned subsidiary of Nathan's Famous Operating Corp. ("NFOC").

NFOC began operation in 1916 as a sole proprietorship and was incorporated as a New York corporation on July 21, 1925 under the name "Nathan's Famous, Inc." NFOC was reincorporated as a Delaware corporation on October 22, 1989 and changed its name to "Nathan's Famous Operating Corp." on December 15, 1992. NFOC, in turn, is a wholly-owned subsidiary of Nathan's Famous, Inc. ("NFI"), a Delaware corporation, which was incorporated as "Nathan's Famous Holding Corp." on July 10, 1992 and later changed its name to "Nathan's Famous, Inc." on December 15, 1992. Shares of NFI are publicly traded on NASDAQ under the ticker symbol NATH. The principal business address for both NFI and NFOC is also at One Jericho Plaza - Wing A, 2nd Floor, Jericho, New York 11753.

In this disclosure document, we offer and sell franchises for "Nathan's Famous" restaurants, which are fast-service restaurants operating in buildings that bear our interior and exterior trade dress, and which feature hot dogs made with our proprietary spice formula as well as crinkle-cut french fries, hamburgers, assorted sandwiches, platters, and other fast-service menu items ("**Restaurants**" or "**Franchised Businesses**"). Restaurants are different from franchises where we permit the addition of "Nathan's Famous" hot dogs, crinkle-cut french fries and other items to the menu of other food service establishments ("**Nathan's Branded Menu Program Operations**"). We offer franchises for Nathan's Branded Menu Program Operations in a separate disclosure document. We also license third parties to manufacture and sell certain processed meats, and other products bearing our trademarks, to supermarkets and other retail food outlets.

We have offered franchises for "Nathan's Famous" Restaurants since our inception in December 1993, and started offering franchises for Branded Menu Program Operations in October of 2006 (which are offered in a separate disclosure document). We do not offer franchises in any other line of business (other than for Arthur Treacher's Co-Branded Operations to be included within Nathan's Famous restaurants as more fully described below; from 1999 to 2016, we also offered franchises for Nathan's Famous Co-Branded Operations to be included within "Miami Subs" restaurants). NFOC offered franchises for "Nathan's Famous" Restaurants from 1968 until the date of our inception in December 1993, but has not granted franchises since then or in any other line of business. NFI has never offered franchises. Continuously since 1916, our parent company, NFOC, has operated company-owned "Nathan's Famous" Restaurants. Neither we nor NFI operate company-owned Restaurants or Branded Menu Program Operations. As of March 26, 2023, there were 72 domestic franchised Restaurants (including 25 franchised "Miami Subs" restaurants that conduct Nathan's Famous Co-Branded Operations), 86 locations that conduct Nathan's Branded Menu Program Operations and four NFOC-owned "Nathan's Famous" Restaurants (including one seasonal unit that operates only during the summer months and is closed the remainder of the year).

For many years, our corporate parents (and now, we) have licensed third parties to manufacture "Nathan's Famous" brand products and distribute those products in packages or over-the-counter distribution using our "Nathan's Famous" proprietary marks, at groceries, supermarkets, club stores and similar retail outlets ("**Grocery Products**"). Similarly, we and our corporate parents have distributed and sold "Nathan's Famous" brand products in packages using our "Nathan's Famous" proprietary marks for

direct-to-consumer sales (for example, via catalogs, mail order, toll free numbers, the Internet, "home shopping" television channels, etc.) ("**Direct-to-Consumer Products**"). We and our corporate parents have also distributed and sold "Nathan's Famous" products in wholesale bulk packages ("**Bulk Products**") for on-site preparation, sale and consumption together with our "Nathan's Famous" proprietary marks at stadiums, sports arenas, theme parks, institutional feeding facilities, military bases, convenience stores, restaurants and other food service operators and other locations which are not "Nathan's Famous" franchised Restaurants ("**Branded Products**"). (The program through which we sell non-franchisees Branded Products for on-site preparation, sale and consumption is sometimes referred to in this disclosure document as the "**Branded Products Program**"). We and our corporate parents retain the right to conduct these and other business activities in the future.

We conduct our business under our corporate name. We do not maintain a sales office at any location other than our principal place of business in Jericho, New York.

Our agents for service of process are listed in Exhibit L.

### **Our Affiliates**

We have several affiliates, including NFOC and NFI (described above), as well as Nathan's Famous Services, Inc. ("**Services**"), which is also wholly-owned by NFOC and which is also a Delaware corporation formed on December 8, 1993. NFI, NFOC, and Services maintain their principal offices at the same location as our principal offices. Services employs some of the individuals who perform the services we are required to provide under the Franchise Agreement. Services has no other business purpose, and has never operated Restaurants or offered any franchises. This arrangement is simply to address our own internal corporate needs. We will continue to honor our legal obligation to render services to you.

#### NF Treachers

One of our affiliates is NF Treachers Corp. ("NF Treachers"). NF Treachers was incorporated in Delaware on February 17, 2006 and maintains its principal place of business at the same location as our principal offices. NF Treachers does not offer franchises in any other line of business, and has never done so.

From 1969 through February 28, 2006, the business of franchising and otherwise authorizing parties to operate "Arthur Treacher's" quick service restaurants was carried out by PAT Franchise Systems, Inc. ("**PFSI**") and its predecessors (as detailed below), none of which are affiliated with us. PFSI (and its predecessors) developed an "Arthur Treacher's" restaurant system. As of February 28, 2006, there were approximately 60 franchised restaurants in the "Arthur Treacher's" restaurant system ("PFSI's Existing AT Franchise System"). We have no way of updating or verifying the current number of restaurants in PFSI's Existing AT Franchise System.

Additionally, PFSI had previously entered into a co-branding development agreement (the "**AT Co-Branding Agreement**") with NFSI and Miami Subs USA, Inc. ("**MSUSA**") under which NFSI and MSUSA were granted the right to include limited-menu co-branded "Arthur Treacher's" restaurant operations within company-owned and franchised "Nathan's Famous" and "Miami Subs" restaurants (each of those limited-menu operations are referred to as an "**Arthur Treacher's Co-Branded Operation**").

On February 28, 2006, NF Treachers acquired from PFSI all trademarks and other intellectual property relating to the "Arthur Treacher's" brand (the "**AT Trademark Acquisition**"). At the same time as the AT Trademark Acquisition, NF Treachers granted back to PFSI a limited license (the "**Limited License**") to use the "Arthur Treacher's" intellectual property solely for the purposes of: (1) PFSI continuing

to permit the operation of the existing "Arthur Treacher's" restaurants comprising PFSI's Existing AT Franchise System; and (2) PFSI granting rights to third parties who wish to develop new traditional "Arthur Treacher's" quick service restaurants in Indiana, Maryland, Michigan, Ohio, Pennsylvania, Virginia, Washington D.C. and areas of Northern New York State (collectively, the "**PFSI Markets**"). In August 2007, TruFoods LLC acquired all of PFSI's rights under the Limited License. (NF Treachers retained certain rights to sell franchises for the operation of Arthur Treachers restaurants in certain circumstances within the geographic scope of the PFSI Markets.) Additionally, as part of the transactions relating to the AT Trademark Acquisition, the AT Co-Branding Agreement was terminated, and as a result, TruFoods and PFSI have no further role or rights relating to the Arthur Treacher's Co-Branded Operations included in NFSI's and MSUSA's company-owned and franchised Restaurants.

As a result of the AT Trademark Acquisition (and its related transactions), as of February 28, 2006, NF Treachers acts as the franchisor of the "Arthur Treacher's" restaurant system in all areas and markets, except that PFSI will continue to be the franchisor of the "Arthur Treacher's" restaurant system: (1) in connection with PFSI's Existing AT Franchise System; and (2) for any new "Arthur Treacher's" restaurants developed and franchised by PFSI in the PFSI Markets.

NF Treachers will continue the expansion of the Arthur Treacher's Co-Branded Operation in "Nathan's Famous" Restaurants by licensing NFSI the right to use – and license to you – the "Arthur Treacher's" name, marks, and system for the purpose of granting Arthur Treacher's Co-Branded Operations directly to NFSI's franchisees directly. Additionally, NF Treachers has also licensed NFSI the right to use the "Arthur Treacher's" name, marks, and system for the purpose of granting Arthur Treacher's Co-Branded Operations directly to MSUSA's franchisees in limited circumstances. If you are approved for an Arthur Treacher's Co-Branded Operation, you will sign an Arthur Treacher's participation agreement directly with NFSI. We also offer to enter into license agreements under which we will permit the addition of certain "Arthur Treacher's" menu items to the menu of other food service establishments ("**Arthur Treacher's Branded Menu Program Operations**"). Information concerning NF Treachers Co-Branded Operations is included in this disclosure document, and information concerning our offer of Arthur Treacher's Branded Menu Program Operations is found in a separate disclosure document, which you can request from us. As of March 26, 2023, there were 46 franchised Restaurants that conduct Arthur Treacher's Co-Branded Operations, "Miami Subs" restaurants that conduct Arthur Treacher's Co-Branded Operations and/or Franchised Restaurants that operate under Arthur Treacher's Branded Menu Program License Agreements. We began to offer license agreements for the Arthur Treacher's Branded Menu Program on December 1, 2009 (which are offered in a separate disclosure document).

The business of operating and franchising quick service restaurants using the "Arthur Treacher's Fish & Chips" name and trademarks was begun in 1969 by Arthur Treacher's Fish & Chips, Inc., a Delaware corporation ("**ATF&C**"). In 1979, ATF&C was sold to Mrs. Paul's Frozen Foods ("**Mrs. Paul's**"), which in turn sold all of the assets of ATF&C (the "**AT Assets**") to Lumara Foods of America, Inc., an Ohio corporation ("**Lumara**"), in 1982. In 1983, Lumara entered bankruptcy and in 1984, a Utah corporation named "Arthur Treacher's Inc." ("**ATI Utah**") was formed and purchased Lumara's assets (including the AT Assets) out of bankruptcy.

In August 2000, ATI Utah changed its name to Digital Creative Development Corporation ("**DCDC**"). At or around the same time, DCDC formed an affiliate in Delaware named Arthur Treacher's Inc. ("**ATI Delaware**") to which DCDC contributed the AT Assets.

In late 2000, a series of transactions between DCDC, ATI Delaware, and Jeffrey Bernstein ("**Bernstein**") resulted in the formation of a New York corporation named Arthur Treacher's Franchise Systems, Inc. ("**ATFS**"), which became the owner of the AT Assets. ATFS was owned by ATI Delaware, which in turn was owned 80% by DCDC and 20% by Bernstein.

PFSI (which was incorporated in Delaware on November 26, 2001) acquired 100% of the outstanding stock of ATFS on February 28, 2002, and on October 31, 2002 the assets of ATFS were merged into PFSI, resulting in PFSI being the sole owner of the AT Assets and the franchisor of the "Arthur Treacher's" restaurant system.

Correspondence to or requests for information from TruFoods LLC (including information regarding the availability of franchises for traditional "Arthur Treacher's" quick service restaurants within the PFSI Markets, as well as any information concerning TruFood's Existing AT Franchise System) should be addressed to TruFoods at its principal place of business, which is 666 Fifth Avenue, 27<sup>th</sup> Floor, New York, New York 10103, Attn: Andrew Unanue, CEO. TruFoods is also the franchisor of the Pudgie's Chicken system, and also owns the stock of the franchisor of the Wall Street Deli and Burritoville franchise concepts.

Please note that information about TruFoods, PFSI, and their predecessors is based on the information that TruFoods and PFSI have provided to NF Treachers as part of the AT Trademark Acquisition, but we cannot independently verify whether that information is accurate. Please also note that NF Treachers is not PFSI's corporate successor.

### **The Franchise Offered**

If we approve your application to become a "Nathan's Famous" franchisee, you will sign a franchise agreement in the form attached to this disclosure document as Exhibit A ("**Franchise Agreement**"). Under a Franchise Agreement, we will grant you the right, and you will accept the responsibility, to establish and operate a Restaurant at an agreed-upon location (the "**Approved Location**").<sup>1</sup>

If you wish to participate, we may also approve your application to include an Arthur Treacher's Co-Branded Operation within your Nathan's Famous Restaurant. If you are approved, you will also sign an "Arthur Treacher's" Participation Agreement (defined below), in the form attached to this disclosure document as Exhibit F-1 for a new Nathan's franchisee, and Exhibit F-2 for an existing Nathan's franchisee. Under this arrangement, you will be required to pay an additional initial fee and your sales of "Arthur Treacher's" products will be counted as part of the "gross sales" made at your "Nathan's Famous" Restaurant (and subject to the "Nathan's Famous" royalty and marketing development fees). Under the Participation Agreement you will agree to certain terms relating to your use of the "Arthur Treacher's" marks and system, the conduct of advertising, and matters such as transfer, termination, and other contractual issues.

If you are an existing or potential Miami Subs franchisee, we may also approve your application to include a Nathan's Famous Co-Branded Operation or Arthur Treacher's Co-Branded Operation within your Miami Subs restaurant. If you are approved, you will also sign a "Nathan's Famous Participation Agreement" in the forms attached to this disclosure document as Exhibit E. Under this arrangement, you will be required to pay an additional initial fee and your sales of "Nathan's Famous" products will be counted as part of the "gross sales" made at your Miami Subs restaurant (and subject to the Miami Subs royalty and advertising fees). Under the Participation Agreements you will agree to certain terms relating to your use of the "Nathan's Famous" marks and system, the conduct of advertising, and matters such as transfer, termination, and other contractual issues.

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<sup>1</sup> In this disclosure document, "you" means the person or legal entity with whom we enter into a Franchise Agreement or a Development Agreement. We also use the term "you" to refer to the persons who own an interest in a corporation, partnership, limited liability company, limited liability partnership, or other entity that signs a Franchise Agreement or a Development Agreement.

Under a separate disclosure document, we offer the Nathan's Branded Menu Program Operation, which is a "Nathan's Famous" menu-line extension added to a new or existing food service establishment. An Arthur Treacher's Branded Menu Program Operation is an "Arthur Treacher's" menu-line extension added to a Nathan's Branded Menu Program Operation.

We may also offer area development agreements ("**Area Development Agreements**") to qualified individuals, corporations, partnerships, limited liability companies and partnerships ("**Area Developers**") in the United States. If you sign an Area Development Agreement, we will grant you the right, and you will accept the responsibility, to establish an agreed-upon number of Restaurants within an agreed-upon designated area (the "**Development Area**"), under an agreed-upon timetable (the "**Development Schedule**"). Each Restaurant will be constructed and operated under a Franchise Agreement. The Franchise Agreement for the first Restaurant developed under the Area Development Agreement will be in the form attached to the Area Development Agreement. The Franchise Agreement for each additional Restaurant developed will be in the form of the Franchise Agreement we generally offer to new franchisees at that time. If you are an Area Developer and you establish a Restaurant that will be operated from a kiosk ("**Kiosk**") or as a mobile unit ("**Mobile Unit**"), the Kiosk and/or Mobile Unit will not count toward fulfilling your obligations under the Area Development Agreement and under the Development Schedule.

From time-to-time we will enter into franchise agreements, area development agreements, and other similar arrangements in which a franchisee or area developer will open and operate Restaurants at public transportation facilities, department stores, hardware stores, service station/convenience stores, tollroads, airports, military bases, shopping malls, and other non-traditional settings.

We also offer franchise agreements and area development agreements for the establishment of "Nathan's Famous" Restaurants outside the United States. The terms of those arrangements may vary from the standard Franchise Agreement and Area Development Agreement described in this disclosure document.

## **The System**

We and NFOC have developed, and we own, a system for Restaurant operation (the "**System**"). The Restaurants feature a specialized menu including, among other things, hot dogs manufactured with a proprietary spice formula, hamburgers, crinkle-cut french fries, assorted sandwiches, and platters. The System's distinguishing characteristics include distinctive exterior and interior design, decor, color scheme, and furnishings; uniform standards, specifications, and procedures for operations; quality and uniformity of products and services offered; procedures for management and inventory control; training and assistance; and advertising and promotional programs; all of which we may periodically change, improve, and further develop.

The System is identified by our federally registered service marks NATHAN'S FAMOUS & Design, and SINCE 1916 NATHAN'S FAMOUS & Design, and any other trade names, service marks and trademarks that we may designate otherwise in writing for use with the System (the "**Proprietary Marks**"). You must conduct the Franchised Business according to our Confidential Operating Manual (the "**Manual**"), a copy of which we will lend to you for the term of the Franchise Agreement. You may offer only those services and sell only those items and products that we specify or approve.

A Restaurant is typically located in one of the following types of settings: a free-standing building, a food court in a shopping mall, an in-line shopping center, or an in-line urban unit. A typical newly constructed "Nathan's Famous" Restaurant will be approximately 500 to 2,300 square feet in size.

We also offer Franchise Agreements under which you would establish and operate a Restaurant from a Kiosk or a Mobile Unit.

- A Kiosk is a free-standing, indoor/outdoor structure, approximately 150 square feet in size, decorated to meet our specifications (including using our trade dress, Proprietary Marks, and design), featuring a limited menu, and using our proprietary equipment for preparing food products.
- A Mobile Unit is a truck or mobile vehicle of varying size, decorated to meet our specifications (including using our trade dress, Proprietary Marks and design), featuring a limited menu and using our proprietary equipment for preparing food products.

If you wish to operate a Kiosk Restaurant or a Mobile Unit Restaurant, and we approve that request, you would sign a Franchise Agreement and either a kiosk amendment to the Franchise Agreement ("**Kiosk Amendment**," attached as Exhibit B-1), or a Mobile Unit amendment to the Franchise Agreement ("**Mobile Unit Amendment**", attached as Exhibit B-2), as is appropriate. Unless otherwise indicated, the terms "you" and "Restaurant" also include Kiosks and Mobile Units, and franchisees operating Kiosks and/or Mobile Units. In addition, references to the premises of a Restaurant or Franchised Business include the Kiosks and Mobile Units, the public areas surrounding the Kiosk and Mobile Units, as well as any storage areas.

We may also offer you the opportunity to add co-branded operations using the brand, concept, and products offered by our affiliate NF Treachers (Arthur Treacher's). Under the co-branding program, if you qualify and are approved, you may sign a participation agreement ("**Participation Agreement**") and add one or more co-branded concepts to your Restaurant. The Participation Agreement you sign will vary depending on whether you are opening a new Franchised Business or are adding co-branded concepts to an existing Franchised Business.

### **Co-Branded Operations for Nathan's Famous Operators: Arthur Treacher's**

Together with NF Treachers, we have developed the Arthur Treacher's Co-Branded Operation concept where: (1) certain "Arthur Treacher's" products may be incorporated into a "Nathan's Famous" Restaurant at locations approved by NFSI; and (2) those products are offered for sale at the Restaurant under an "Arthur Treacher's" branded menu-line, which will be an extension of the host "Nathan's Famous" menu. If you wish to establish an Arthur Treacher's Co-Branded Operation, and we approve you to do so, then in addition to your Franchise Agreement, you will also sign an "Arthur Treacher's" Participation Agreement. Under this arrangement, you will be required to pay an additional initial fee, and your sales of "Arthur Treacher's" products will be counted as part of the "gross sales" made at your "Nathan's Famous" Restaurant (and subject to the "Nathan's Famous" royalty and marketing development fund fees). Under the Participation Agreement you will agree to certain terms regarding your use of the "Arthur Treacher's" marks and system, the conduct of advertising, and matters such as transfer, termination, and other contractual issues. A copy of the "Arthur Treacher's" Participation Agreement for new Restaurants is attached to this disclosure document as Exhibit F-2; the "Arthur Treacher's" Participation Agreement for existing Restaurants is attached as Exhibit F-1.

### **Co-Branded Operations for Miami Subs Operators: Nathan's Famous and Arthur Treacher's**

Miami Subs USA, Inc. ("**MSUSA**") is a Florida corporation that operates and franchises restaurants under the names "Miami Subs" and "Miami Subs Grill" (collectively "**Miami Subs Restaurants**"). Miami Subs Restaurants principally offer quality food that is prepared fresh and cooked to order, such as hot and cold submarine and pita sandwiches, gyros and other Greek specialties, hamburgers, chicken, salads,

desserts, ice cream and frozen yogurt, beverages, and other food products. Where permitted by applicable law, Miami Subs Restaurants also sell beer, wine and champagne.

On September 30, 1999, our parent, NFI, completed its acquisition of MSUSA's parent, Miami Subs Corporation ("**MSC**") under the terms of a merger agreement that was signed on January 24, 1999. On June 7, 2007, NFI sold all of its interest in MSC to an unaffiliated entity named Miami Subs Capital Partners I, Inc. Neither we nor NFI have any remaining relationship to MSC or the "Miami Subs" system.

From September 1999 until May 2007, while MSUSA was one of our affiliates, we engaged in co-branding activities with the "Miami Subs" system by permitting the inclusion within Miami Subs Restaurants of: (1) KRR Express Co-Branded Operations (described below); (2) Arthur Treacher's Co-Branded Operations; and (3) certain "Nathan's Famous" products offered for sale under a "Nathan's Famous" branded menu-line, as an extension of the host "Miami Subs" menu (referred to in this disclosure document as a "**Nathan's Famous Co-Branded Operation**").

Those Miami Subs Restaurants that were co-branded as described above, and that were in operation as of June 7, 2007, are permitted to continue to include the applicable Co-Branded Operations. If you are a prospective buyer of one of those Miami Subs Restaurants and you wish to retain those co-branding rights, and if we approve you to do so, then in addition to your "Miami Subs" franchise agreement (which will be provided by MSUSA), you will also be required to sign a Participation Agreement. Under this arrangement, you will be required to pay a transfer fee in respect of each co-branded concept, and your sales of "Nathan's Famous", "Arthur Treacher's" and "Kenny Rogers Roasters" products will be subject to royalty and advertising fund fees payable to us. Under the Participation Agreements you will agree to certain terms regarding your use of the "Nathan's Famous" and "Arthur Treacher's" marks and system, the conduct of advertising, and matters such as transfer, termination, and other contractual issues.

In addition, franchisees of new Miami Subs Restaurants (that is, those initially developed after June 7, 2007) may be offered the right to include Nathan's Famous Co-Branded Operations and Arthur Treacher's Co-Branded Operations. If you are a prospective franchisee of a new Miami Subs Restaurant and you desire to include a Nathan's Famous Co-Branded Operation and an Arthur Treacher's Co-Branded Operation, and we approve you to do so, then in addition to your Miami Subs franchise agreement (which will be provided by MSUSA), you will also be required to sign a "Nathan's Famous" and "Arthur Treacher's" Participation Agreement (as applicable). Under this arrangement, you will be required to pay an additional initial fee in respect of each co-branded concept, and your sales of "Nathan's Famous" and "Arthur Treacher's" products will be counted as part of the "gross sales" made at your Miami Subs Restaurant (and subject to the Miami Subs royalty and advertising fund fees). Under the Participation Agreements you will agree to certain terms regarding your use of the "Nathan's Famous" and "Arthur Treacher's" marks and system, the conduct of advertising, and matters such as transfer, termination, and other contractual issues.

The franchise described in this Disclosure Document is for a "Nathan's Famous" Restaurant which may or may not include an Arthur Treacher's Co-Branded Operation (or, if an existing Restaurant, a KRR Express Co-Branded Operation). If we grant you a "Nathan's Famous" franchise, that does not mean that we will also grant you rights to an Arthur Treacher's Co-Branded Operation (or, if an existing Restaurant, a KRR Express Co-Branded Operation). Additionally, if MSUSA grants you a Miami Subs franchise (a process we are not involved in and in connection with which we have no responsibilities and can assume no liability), that does not mean that we will also grant you rights to a Nathan's Famous Co-Branded Operation or Arthur Treacher's Co-Branded Operation (or, if an existing Restaurant, a KRR Express Co-Branded Operation).

For each of the co-branded operations described in this disclosure document, we will provide certain training, operational monitoring and guidance. See Item 11 for more information.

## **KRR Express Co-Branded Operations**

Some of our current franchisees also operate a "KRR Express Co-Branded Operation" within their "Nathan's Famous" Restaurant. If you are a prospective buyer of one of those franchises, and we approve you to continue operating the KRR Express Co Branded Operation at that Restaurant, we will permit you to do so under the same terms and conditions as the original franchisee operated its KRR Express Co Branded Operation.

## **Remote Kitchens**

We have developed a channel of trade that allows existing kitchens to process mobile orders for menu items similar to those offered in Restaurants plus other menu items under the "Wings of New York®" and "Arthur Treacher's®" names using our standards and confidential information (the "**Remote Kitchen Channel**"). We offer qualified operators a license to operate remote kitchens under the Remote Kitchen Channel. These remote kitchens may be located in close proximity to your Restaurant. See Item 12.

## **Competition**

You can expect to compete in your market with locally-owned restaurants and delicatessens, as well as with national and regional restaurant chains. The market for fast-food restaurant service is well-established and very highly competitive. Fast-food restaurants compete on the basis of factors such as price, service, restaurant location, and food quality. These businesses are often affected by other factors as well, such as changes in consumer taste, economic conditions, population, and travel patterns.

To the extent your Restaurant is to be located in a non-traditional setting as described above, or if your Restaurant is to be located near another "Nathan's Famous" Restaurant, you may appear to or actually compete with other "Nathan's Famous" Restaurants.

If "Nathan's Famous" Grocery Products, Bulk Products or Branded Products are sold in your area, you may also appear to or actually compete with sellers of Grocery Products, Bulk Products and Branded Products. Additionally, our Direct-To-Consumer Products are available nationally; accordingly, you may appear to or actually compete with our Direct-To-Consumer Products. To the extent your Restaurant is in the same market as an Arthur Treacher's restaurant (or a KRR Express Co-Branded Operation or Arthur Treacher's Co-Branded Operation or a co-branded Miami Subs Restaurant), you may appear to or actually compete with these concepts as well.

## **Industry-Specific Regulations**

You must comply with all local, state, and federal laws that apply to your restaurant operations including health, sanitation, no smoking, EEOC, OSHA, discrimination, employment, and sexual harassment laws. The Americans with Disabilities Act of 1990 and state equivalents require readily accessible accommodations for disabled people and may affect your building construction, site design, entrance ramps, doors, seating, bathrooms, drinking facilities, etc. There are also federal, state, and local regulations that apply to sanitation, food and menu labeling (such as nutritional and caloric information), food preparation, food handling, food content (such as salt and trans fats), and food service. You must also obtain real estate permits, licenses, and operational licenses. If we approve your request to sell beer and wine, or to operate vending machines, you will have to obtain appropriate permits and licenses. You must comply with all applicable federal, state, and local laws and regulations during the operation of your Restaurant. You should consult with your attorney concerning these and other local laws and ordinances that may affect your Restaurant's operation.

## Item 2

### BUSINESS EXPERIENCE

**Executive Chairman of the Board of Directors:** **Howard M. Lorber**

Mr. Lorber became our Executive Chairman of the Board on January 1, 2007. Before January 1, 2007, he was our Chairman of the Board of Directors and Chief Executive Officer, positions he held since December 1993. In addition, Mr. Lorber was also appointed the Executive Chairman NFI's Board of Directors on January 1, 2007. Before January 1, 2007, he was the Chairman of the Board of Directors of NFI (a position he held since 1990) and NFI's Chief Executive Officer (a position he held since 1993). He first joined NFI's Board of Directors in 1987. Since January 2006, Mr. Lorber has also served as President and Chief Executive Officer and as a member of the Board of Directors of Vector Group, Ltd., a holding company located in Miami, Florida (of which he was previously President and Chief Operating Officer and a director from January 2001 through December 2005). Since July 2006, Mr. Lorber has also served as Vice Chairman of the Board of Directors of Ladenberg Thalman Financial Services Inc., an investment banking and brokerage firm located in New York, New York (of which he was previously Chairman of the Board of Directors since May 2001). Mr. Lorber has also served as a member of the Board of Directors of United Capital Corp., a manufacturing and real estate company located in Great Neck, New York, since May 1991.

**Director, Chief Executive Officer:** **Eric Gatoff**

Mr. Gatoff became our Chief Executive Officer on January 1, 2007. Before January 1, 2007, he was our Vice President, Corporate Counsel and Assistant Secretary, positions he held since joining the company in October 2003. In addition, Mr. Gatoff was also appointed Chief Executive Officer of NFI on January 1, 2007. Before January 1, 2007, Mr. Gatoff was NFI's Vice President and Corporate Counsel, positions he has held since October 2003, and as member of the Board of Directors, a position he has held since February 2005. In addition to the positions listed above, Mr. Gatoff is Chief Executive Officer and a member of the Board of Directors of NFOC and NF Treachers.

**Chief Financial Officer and Vice President of Finance:** **Robert Steinberg**

Mr. Steinberg has served as our Chief Financial Officer and Vice President of Finance since July 2020. Before that, from May 2014 to July 2020, he was our Corporate Controller.

**Vice President of Franchise Operations:** **Oliver Powers**

Mr. Powers has served as our Vice President of Franchise Operations since March 2022. From September 2017 to March 2022 he served as our Senior Director of Franchise Operations. Mr. Powers served as a Franchise Business Consultant for us from May 2000 until September 2017.

**Senior Vice President – Branded Products Program:** **Leigh Platte**

Mr. Platte has served as our Senior Vice President of the Branded Products Program since June 2014.

**Senior Director of Human Resources:** **Karen C. Brown**

Ms. Brown joined NFI in April 1989 as its Director of Training, then as Director of Personnel and Training from August 1990 to April 1995, as Director of Human Resources from April 1995 to February 1999, and as Senior Director of Human Resources since February 1999. Ms. Brown has also served NFSI since April 1989, and has served as our Senior Director of Human Resources since February 1999. In addition to the positions listed above, Ms. Brown is Senior Director of Human Resources of NFOC.

**Senior Director of Company Operations:** **Bruce J. Miller**

Mr. Miller has served us since March 1994 and has been our Senior Director of Company Operations since July 2008, having previously served as our Director of Company Operations (from September 1997 to July 2008). Mr. Miller has also served NFI and NFOC since March 1994, first as a District Manager (March

1994 through August 1997), and as its Director of Company Operations since September 1997. In addition to the positions listed above, Mr. Miller is Director of Company Operations of NFOC.

**Senior Director of Operations Services and Training: James Hicks**

Mr. Hicks has served as our Senior Director of Operations Services and Training since March 2022. He served as our Director of Operations Services and Training from December 2019 to March 2022. From July 2018 to May 2019, he was Country Director – U.S. West for Subway Restaurants in Milford, Connecticut. Mr Hicks was Senior Vice President – Domestic Operations for Johnny Rockets, Inc. in Lake Forest, California from February 2015 to October 2017.

**Vice President of Marketing: Philip J. McCann**

Mr. McCann has served as our Vice President of Marketing since December 2021. From July 2016 to December 2021 he served as our Senior Director of Marketing.

**Management Consultant and Strategic Advisor: James Walker**

Mr. Walker has worked as a Management Consultant and Strategic Advisor for us since November 2021. He was our Senior Vice President, Restaurants from April 2019 to November 2021. Before that, he was Vice President of North America for Subway Restaurants in Milford, Connecticut from July 2017 to January 2019. Mr. Walker was President of Johnny Rockets in Lake Forest, California from December 2013 to July 2017.

Note: The preceding are our directors, principal officers, and other executives with management responsibility for the operation of our business under the franchises described in this disclosure document. The principal occupation and business experience of each person during the past five years, including the names and locations of prior employers is described above. Unless otherwise indicated, the employer's location is at our offices in Jericho, New York.

### Item 3

## LITIGATION

In October 2006, we entered into a Consent Order with the Minnesota Department of Commerce after we reported to the Department that we inadvertently entered into a franchise agreement in Minnesota during a period when we were not currently registered with that state. Under the Consent Order, we paid a \$1,000 civil penalty and agreed not to violate the Minnesota Franchises Law in the future.

SMG, Inc. et al. v. Nathan's Famous Systems, Inc., Circuit Court of Cook County, Illinois County Department, Chancery Division, Case No. 07 Ch. 20174. SMG produces proprietary "Nathan's Famous" hot dogs that are sold in the U.S. by our franchisees, licensees, food-service customers, and in our Restaurants under a license agreement (the "**SMG Agreement**"). In April 2007, we notified SMG that it was in breach of the SMG Agreement, and we terminated the SMG Agreement with an effective termination date of July 31, 2008. SMG seeks a declaratory judgment contending that no contract breach has occurred. On January 28, 2010 SMG filed a motion for leave to file a Second Amended Complaint and Amended Answer, seeking to assert new claims and affirmative defenses based on our alleged breach of the SMG Agreement in relation to the manner in which our proprietary seasonings are sold to SMG. On February 25, 2010, the Court granted SMG's motion for leave, and SMG file a Second Amended Complaint and Amended Answer at that time. On March 29, 2010, we filed an answer substantially denying all of the allegations in SMG's Second Amended Complaint. On September 17, 2010, SMG filed a motion for summary judgment with respect to claims relating to the sale of Nathan's proprietary seasonings. On October 5, 2010, we filed an opposition to SMG's motion for summary judgment, and cross-moved for

summary judgment. A trial on the claims relating to our termination of SMG Agreement took place between October 6 and October 13, 2010. Oral argument on the claims relating to the sale of Nathan's proprietary seasonings took place prior to the start of the trial. On October 13, 2010, an Order was entered with the Court denying our cross-motion and granting SMG's motion for summary judgment with respect to SMG's claims relating to the sale of Nathan's proprietary seasonings to SMG. On December 17, 2010, the Court ruled that we were not entitled to terminate the SMG Agreement. On January 19, 2011, the parties submitted an order which, among other things, assessed damages against us relating to the sale of our proprietary seasonings of approximately \$4,910,000 inclusive of pre-judgment interest. The final judgment was entered on February 4, 2011. On March 4, 2011, we filed a notice of appeal seeking to appeal the final judgment. In order to secure the final judgment pending an appeal, on March 31, 2011, we entered into a Security Agreement with SMG and Blocked Deposit Account Agreement with SMG and Citibank, N.A. On January 25, 2013, the Appellate Court affirmed the trial court's ruling. On February 15, 2013, we filed a Petition for Re-hearing which was denied on February 27, 2013. On April 3, 2013, we filed a Petition for Leave to Appeal with the Supreme Court of the State of Illinois. On July 11, 2013, we learned that the Illinois Supreme Court denied the Petition for Leave of Appeal. Accordingly, on July 24, 2013, we fully satisfied the judgment.

Except for the two actions described above, no litigation is required to be disclosed in this Item.

#### Item 4

### BANKRUPTCY

No bankruptcy proceedings are required to be disclosed in this Item.

#### Item 5

### INITIAL FEES

#### **Franchise Agreement**

When you sign the Franchise Agreement, you must pay us an initial franchise fee of \$30,000 for a single "Nathan's Famous" Restaurant. If you sign a deposit agreement ("**Deposit Agreement**"), we will credit any deposit you pay us for the Deposit Agreement against the Initial Franchise Fee.

Under the terms of the Deposit Agreement, you will pay us a deposit of \$5,000, after which you will have 90 days to locate and secure a location for your franchised business. We must approve both your proposed location and the lease before execution. If you and we are unable to agree upon a location within 90 days after the effective date of the Deposit Agreement, the Deposit Agreement will terminate and, upon your written request, we will refund you the deposit, minus our reasonable expenses, upon all of the parties' execution of a mutual termination and release agreement. If you and we agree upon a location for the franchised business before termination of the Deposit Agreement, you will sign a Franchise Agreement and pay us the balance of the Initial Franchise Fee. Once you have signed the Franchise Agreement, no part of the Initial Franchise Fee (including the deposit) is refundable. Your deposit is a sign of your good faith and will be used to cover some of our costs if you do not sign a Franchise Agreement. The Deposit Agreement does not confer upon you any franchise or territorial rights. The Deposit Agreement is attached to this disclosure document as Exhibit G.

If you are signing a Franchise Agreement for a new Franchised Business, and if you qualify and are approved for an Arthur Treacher's Co-Branded Operation, then you must pay us an additional \$7,500

fee. If you own an existing Franchised Business, and if you qualify and are approved for an Arthur Treacher's Co-Branded Operation, then you must pay us an additional fee of \$5,000.

If you will operate the Restaurant from a Kiosk, and sign a Kiosk Amendment, the initial franchise fee will be \$15,000. Initial franchise fees must be paid in a lump sum and are not refundable.

If you will operate the Restaurant from a Mobile Unit, and sign a Mobile Unit Amendment, the initial franchise fee will be \$15,000. Initial franchise fees must be paid in a lump sum and are not refundable.

During our most recently-concluded fiscal year, we collected reduced initial franchise fees ranging from \$1,000 to \$30,000, under the consideration of such factors as reduced menu offerings and multi-unit franchisees. We did not collect any deposits under Deposit Agreements or co-branding fees under Participation Agreements during our most recently-concluded fiscal year.

### **Area Development Agreement**

When you sign the Area Development Agreement, you must pay us a development fee. The amount of the development fee will vary under the circumstances and will be subject to our mutual discussion and agreement, taking into account a number of factors. These factors include the number of Restaurants you choose to develop under the Area Development Agreement, the market in which you choose to develop, the economics and demographics of that market, and our determination as to the "value" of the Development Area to be granted under the Area Development Agreement as measured by factors such as the total number of potential Restaurants that we anticipate can be developed within the Development Area (regardless of the minimum number of Restaurants that you are required to develop, and market conditions at the time the Area Development Agreement is signed). The development fee must be paid in lump sum, is non-refundable, and is uniformly applied to new developers.

We did not collect any development fees under Area Development Agreements during our most recently-concluded fiscal year.

### **Miami Subs Franchisees**

If you are a new franchisee of a Miami Subs Restaurant that existed as of June 7, 2007, when you sign your Miami Subs franchise agreement with MSUSA, if you wish to retain the Co-Branded Operations at that location (and we approve you to do so), you will also be required to sign the applicable Participation Agreement attached to this disclosure document as Exhibit E and pay a fee to us a non-refundable transfer fee of \$500 for each Co-Branded Operation you desire to retain in your location.

If you are a franchisee of a Miami Subs Restaurant initially developed after June 7, 2007, when you sign your Miami Subs franchise agreement with MSUSA, if you wish to include a Nathan's Famous Co-Branded Operation or Arthur Treacher's Co-Branded Operation (and if we approve you to do so), then you have to sign the applicable Participation Agreement annexed to this Disclosure Document as Exhibit E and pay a non-refundable fee to us of \$5,000 for each Co-Branded Operation you desire to include.

\* \* \* \* \*

We do not collect fees for any other party.

You are not required to purchase anything from us before opening the Franchised Business.

**Item 6**

**OTHER FEES**

Please review this chart together with the notes that follow.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Type of Fee<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Royalty	5.5% of Gross Sales	Tenth day of each month on your Gross Sales for the prior month	"Gross Sales" means all revenue from the sale of services and products and all other income related to the Franchised Business, except sales taxes. Month means a four- or five-week period (or calendar month) that we designate. See notes 2 and 3.
Marketing Development Fund	2.5% of Gross Sales	Same as Royalty	We may designate a different accounting period (for example, weekly) for calculating and paying marketing development sums. If we establish a Regional Fund, you must join that Regional Fund. However, you will not be required to contribute more than 2.5% of your Gross Sales between the Marketing Development Fund and any Regional Fund. See Item 11 and notes 2 and 3.
Grand Opening Advertising	Varies	Varies	You must conduct, at your expense, the grand opening promotional and advertising activities that we require. This advertising expense will be credited against your required contribution to the Marketing Development Fund. See Items 7 and 11.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Type of Fee<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Transfer	The greater of \$4,500 (for a Restaurant) or 15% of our then-current initial franchise fee. (If you operate an Arthur Treacher's Co-Branded operation, you must also pay a \$500 transfer fee.) Transfer fee for a Kiosk or Mobile Unit is \$2,500.	On or before the date of the proposed transfer	No fee is imposed for transfers to a corporation you form for the convenience of ownership.
Audit by us	Cost of the audit	Upon request	If we audit your records and find that you understated amounts, or if you fail to submit the required weekly sales report then among other things, we may require you to reimburse us for the costs of our audit (such as auditors' fees). We may take other remedies as well.
Interest on Overdue Payments	1.5% per month or maximum rate permitted by law, whichever is less	Upon request	If you do not timely pay your royalties or marketing development fund contributions under a Franchise Agreement or Participation Agreement, we may require you to pay interest on the overdue amounts.
Securities Offering	Our actual expenses, at least \$7,500	Upon request	If you propose to make an offering of any securities, you must reimburse us for our reasonable costs (including attorneys' and accounting fees) in evaluating your proposed offering.
Costs and Attorneys' Fees	Will vary under circumstances	Upon request	If you default under the Franchise Agreement, Participation Agreement, or Area Development Agreement, you must reimburse us for the expenses we incur (such as attorneys' fees) in enforcing or terminating the Agreement.
Cost of Defense	Will vary under circumstances	Upon request	If we determine that you have not used the Proprietary Marks according to the Franchise

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Type of Fee<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
			Agreement, or if we determine that you have not used the AT Proprietary Marks according to the Participation Agreement, you must bear the cost of our defense of you against any third-party claim, suit, or claim arising out of your use of the Proprietary Marks or the AT Proprietary Marks, including the cost of any judgment or settlement.
Site Selection	Will vary under circumstances	Upon request	If you are an Area Developer and ask that we conduct more than one on-site evaluation for each proposed Restaurant, you must reimburse us for our reasonable expenses in evaluating the additional site(s).
Inspection and product testing charge	Will not exceed reasonable cost of inspection and actual cost of test	Upon request	If you ask us to consider a new supplier, we may incur certain costs, including testing the supplier's facilities and products, and will ask you or the proposed supplier to reimburse us for those costs. See Item 8.
Indemnification	Will vary under circumstances	Upon request	You must reimburse us for the costs we incur if we are sued, or held liable for claims, that arise from your operation of the Franchised Business, for all actions caused by your failure to comply with the Americans With Disabilities Act, for any offer of your securities, and for costs we incur in defending claims that you used the Proprietary Marks in an unauthorized manner. See Items 9 and 13 for further discussion of your obligation to indemnify us.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Type of Fee<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Renewal fee	One-half of the then-current initial franchise fee, or \$15,000, whichever is more. There is no Renewal fee for a Kiosk or Mobile Unit.	Before renewal	You will only need to pay this fee if you renew the Franchise Agreement. There is no renewal under the Area Development Agreement.

Notes:

1. We impose and collect all fees. All fees are uniformly applied to new system franchisees and non-refundable. However, in some instances in which it was appropriate to do so, we have waived some or all of these fees for particular franchisees.
2. Each week you will have to submit a sales report for the immediately preceding week. That report must reach our office no later than the close of business each Tuesday (with information for the preceding week's sales). If you do not submit the weekly sales report in a timely manner, we will have the right to: (1) make a reasonable estimate of your Gross Sales for any unreported week(s), in order to computing the royalties due, and you will be obligated to pay royalties and make a Marketing Development Fund contribution based upon our estimate; and (2) charge you for the cost of auditing your records.
3. If you have signed a Participation Agreement to establish an "Arthur Treacher's Co-Branded Operation," then your sales of items under these operations will also be deemed Gross Sales at your "Nathan's Famous" Restaurant, and you will pay the same 5.5% royalty and 2.5% Marketing Development Fund Contribution on these sales.

**Item 7**

**ESTIMATED INITIAL INVESTMENT**

Please read these charts in Item 7 together with the notes that follow.

**YOUR ESTIMATED INITIAL INVESTMENT:**  
**CHART 1/FREE-STANDING RESTAURANT**

This chart estimates your initial investment for one Restaurant operated in a free-standing building between 1,500 to 3,000 sq. feet in size, and with or without a drive-through.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be made</b>
Initial Franchise Fee (Note 1)	\$30,000	Lump Sum	Execution	Us

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be made</b>
Real Estate Rent (Note 2)	\$60,000 - \$195,000	As Arranged	As Arranged	Landlord
Restaurant Construction (Note 3)	\$250,000 to \$1,300,000	As Arranged	As Arranged	Contractors, Suppliers
Site Preparation (Note 5)	\$25,000 to \$170,000	As Arranged	As Arranged	Contractors, Suppliers
Furniture, Fixtures, and Equipment (Note 6)	\$145,000 to \$245,000	As Arranged	As Incurred	Suppliers
Pre-Opening and Inventory Expenses (Note 7)	\$10,000 to \$15,000	As Arranged	As Incurred	Suppliers
Training Expenses (Note 8)	\$2,250 to \$10,360	As Arranged	As Arranged	Third Parties
Insurance (Note 9)	\$5,000 to \$7,500	As Arranged	As Incurred	Insurers
Security Deposits (Note 10)	\$0	As Arranged	As Arranged	Landlord
Utility Deposits (Note 10)	\$2,500 to \$6,500	As Arranged	As Incurred	Landlord, Utility Companies
Professional Fees (Note 11)	\$12,000 to \$25,000	As Arranged	As Incurred	Professionals
Business Licenses (Note 12)	\$100 to \$750	As Arranged	As Incurred	Government Agencies
Additional Funds (Note 13)(for first three months)	\$10,000 to \$25,000	As Arranged	As Needed	Various
Grand Opening Advertising (Note 20)	\$2,500	As Arranged	As Needed	Various

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be made</b>
<b>TOTAL (Without Co-branding)</b>	<b>\$554,350 to \$2,032,610</b>			
<b>Arthur Treacher's Co-Branded Operation (Note 19)</b>				
Additional Furnishings, Fixtures and Equipment for Arthur Treacher's (Note 6)	\$9,000 to \$18,000	As Arranged	As Incurred	Suppliers
Arthur Treacher's Initial Inventory and Supplies (Note 7)	\$2,500 to \$5,000	As Arranged	As Incurred	Suppliers
Additional Signage for Arthur Treacher's	\$3,000 to \$7,500	As Arranged	As Incurred	Suppliers
Arthur Treacher's Initial Fee (Note 1)	\$5,000 to \$7,500	Lump Sum	Execution	Us
<b>Arthur Treacher's Co-Branded Operation Subtotal</b>	<b>\$19,500 to \$38,000</b>			
<b>TOTAL if you choose and are approved to operate both concepts)</b>	<b>\$573,850 to \$2,070,610</b>			

**YOUR ESTIMATED INITIAL INVESTMENT:**  
**CHART 2/FOOD COURT OR IN-LINE UNIT**

This chart estimates your initial investment for one Restaurant located in a food court with 500 to 900 square feet of space, or an in-line unit with 1,500 to 2,500 square feet of space.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be made</b>
Initial Franchise Fee (Note 1)	\$30,000	Lump Sum	Execution	Us

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be made</b>
Real Estate Rent (Note 2)	\$45,000 to \$225,000	As Arranged	Monthly	Landlord
Leasehold Improvements (Note 4)	\$155,000 to \$612,500	As Arranged	As Incurred	Contractors, Suppliers
Furniture, Fixtures, and Equipment (Note 6)	\$90,000 to \$205,000	As Arranged	As Incurred	Suppliers
Pre-Opening and Inventory Expenses (Note 7)	\$10,000 to \$15,000	As Arranged	As Incurred	Suppliers
Training Expenses (Note 8)	\$2,250 to \$10,360	As Arranged	As Incurred	Third Parties
Insurance (Note 9)	\$3,000 to \$3,750	As Arranged	As Arranged	Insurers
Security Deposits (Note 10)	\$0	As Arranged	As Arranged	Landlord
Utility Deposits (Note 10)	\$1,750 to \$4,000	As Arranged	As Incurred	Landlord, Utility Companies
Professional Fees (Note 11)	\$12,000 to \$20,000	As Arranged	As Incurred	Professionals
Business Licenses (Note 12)	\$100 to \$750	As Arranged	As Incurred	Government Agencies
Additional Funds (Note 13)(for first three months)	\$7,500 to \$18,000	As Arranged	As Needed	Various
Grand Opening Advertising (Note 20)	\$2,500	As Arranged	As Needed	Various
<b>TOTAL (Without Co-branding)</b>	<b>\$359,100 to \$1,146,860</b>			

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be made</b>
<b>Arthur Treacher's Co-Branded Operation</b> (Note 19)				
Additional Furnishings, Fixtures and Equipment for Arthur Treacher's (Note 6)	\$9,000 to \$18,000	As Arranged	As Incurred	Suppliers
Arthur Treacher's Initial Inventory and Supplies (Note 7)	\$2,500 to \$5,000	As Arranged	As Incurred	Suppliers
Additional Signage for Arthur Treacher's	\$3,000 to \$7,500	As Arranged	As Incurred	Suppliers
Arthur Treacher's Initial Fee (Note 1)	\$5,000 to \$7,500	Lump Sum	Execution	Us
<b>Arthur Treacher's Co-Branded Operation Subtotal</b>	<b>\$19,500 to \$38,000</b>			
<b>TOTAL if you choose and are approved to operate both concepts)</b>	<b>\$378,600 to \$1,184,860</b>			

**YOUR ESTIMATED INITIAL INVESTMENT:**  
**CHART 3/KIOSK**

This chart estimates your initial investment for one indoor Kiosk with 125 to 200 square feet of space.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be made</b>
Initial Franchise Fee (Note 1)	\$15,000	Lump Sum	Execution	Us
Real Estate Rent (Note 2)	\$2,500 to \$50,000	As Arranged	Monthly	Landlord

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be made</b>
Construction (Note 14)	\$34,500 to \$109,000	As Arranged	As Arranged	Contractors, Suppliers
Freight and Installation (Note 14)	\$5,800 to \$7,000	As Arranged	As Arranged	Suppliers
Equipment Package (Note 15)	\$22,500 to \$80,000	As Arranged	As Arranged	Suppliers
Signs and Graphics (Note 16)	\$4,500 to \$7,500	As Arranged	As Incurred	Suppliers
Point of Sale System (Note 17)	\$2,800 to \$8,500	As Arranged	As Incurred	Suppliers
Pre-Opening and Inventory Expenses (Note 7)	\$3,750 to \$5,000	As Arranged	As Incurred	Suppliers
Training Expenses (Note 8)	\$1,200 to \$5,000	As Arranged	As Arranged	Third Parties
Insurance (Note 9)	\$3,000 to \$3,750	As Arranged	As Incurred	Insurers
Utility Expenses (Note 10)	\$1,200 to \$3,000	As Arranged	As Incurred	Landlord, Utility Companies
Professional Fees (Note 11)	\$1,000 to \$2,000	As Arranged	As Incurred	Professionals
Business Licenses (Note 12)	\$100 to \$750	As Arranged	As Incurred	Government Agencies
Additional Funds (Note 13)(for first three months)	\$3,500 to \$6,000	As Arranged	As Needed	Various
Grand Opening Advertising (Note 20)	\$2,500	As Arranged	As Needed	Various

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be made</b>
<b>TOTAL (Without Co-branding or Optional Preparation Area)</b>	<b>\$103,850 to \$305,000</b>			
<b>Optional Preparation Area (Note 18)</b>				
Construction (Notes 14 and 18)	\$6,000 to \$45,000	As Arranged	As Arranged	Contractors, Suppliers
Equipment Package (Notes 15 and 18)	\$15,000 to \$45,000	As Arranged	As Arranged	Suppliers
<b>Optional Preparation Area Subtotal</b>	<b>\$21,000 to \$90,000</b>			
<b>TOTAL With Optional Preparation Area (Without Co-branding)</b>	<b>\$124,850 to \$395,000</b>			
<b>Arthur Treacher's Co-Branded Operation (Note 19)</b>				
Additional Furnishings, Fixtures and Equipment for Arthur Treacher's (Note 6)	\$9,000 to \$18,000	As Arranged	As Incurred	Suppliers
Arthur Treacher's Initial Inventory and Supplies (Note 7)	\$2,500 to \$5,000	As Arranged	As Incurred	Suppliers
Additional Signage for Arthur Treacher's	\$3,000 to \$7,500	As Arranged	As Incurred	Suppliers
Arthur Treacher's Initial Fee (Note 1)	\$5,000 to \$7,500	Lump Sum	Execution	Us
<b>Arthur Treacher's Co-Branded Operation Subtotal</b>	<b>\$19,500 to \$38,000</b>			

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be made</b>
<b>TOTAL if you choose and are approved to operate both concepts</b>	<b>\$144,350 to \$433,000</b>			

**YOUR ESTIMATED INITIAL INVESTMENT:**  
**CHART 4/MOBILE UNIT**

This chart estimates your initial investment for one Mobile Unit.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>	
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be made</b>	
Initial Franchise Fee (Note 1)	\$15,000	Lump Sum	Execution	Us	
Truck, Chassis & Cab, incl. kitchen module and sign (wrap)	\$50,000 - \$220,000	As Arranged	As Arranged	Manufacturer	
Exterior Graphic Wrap	\$4,000- \$85,000	As Arranged	As Arranged	Contractors	
Menu Board	\$500-\$2,500	As Arranged	As Arranged	Suppliers	
Point of Sale System	\$500-\$4,500	As Arranged	As Arranged	Suppliers	
Set Up Fee	\$1,500 - \$3,500	As Arranged	As Arranged	TBD	
Delivery	\$1,000 - \$10,000	As Arranged	As Arranged	Contractor	
Business Licenses (Note 12)	\$100 - \$750	As Arranged	As Arranged	Government Agencies	
Real Estate Rent (2 Scenarios)	For three months (Note 2)	\$0- \$4,500	As Arranged	As Arranged	Landlord or Event Organizer
	Events (expense per event)	(Note 23)	As arranged	As Arranged	Landlord or Event Organizer

<b>Column 1</b> <b>Type of Expenditure</b>	<b>Column 2</b> <b>Amount</b>	<b>Column 3</b> <b>Method of Payment</b>	<b>Column 4</b> <b>When Due</b>	<b>Column 5</b> <b>To Whom Payment is to be made</b>
Commissary Charges (Note 21)	\$1,500 - \$3,000	As Arranged	As Arranged	Commissary
Utility Expenses (Note 10)	\$1,200 - \$1,950	As Arranged	As Arranged	Suppliers
Fuel (Note 22)	\$900 - \$2,400	As Arranged	As Arranged	Suppliers
Insurance	\$1,500 - \$3,000	As Arranged	As Arranged	Insurers
Professional Fees (Note 11)	\$1,000 to \$2,000	As Arranged	As Arranged	Professionals
Additional Funds (Note 13) (for first three months)	\$3,500 - \$6,000	As Arranged	As Incurred	Various
<b>TOTAL</b>	<b>\$82,200- \$364,100</b>			

Notes to all Charts in Item 7:

1. The initial franchise fee and co-branding fees are discussed in detail in Item 5 above. Please also see the information provided above in Item 5 regarding the Area Development Agreement. If you have signed a Deposit Agreement, we will credit any deposit you paid us for the Deposit Agreement against your Initial Franchise Fee. Under the Deposit Agreement, if you are unable or decide not to proceed with your purchase of the franchise 90 days after the effective date of the Deposit Agreement (and before signing a Franchise Agreement), we will refund your deposit, minus our reasonable expenses, upon your written request and all of the parties' execution of a mutual termination and release agreement. The Deposit Agreement is attached to this disclosure document as Exhibit G. Neither we nor our affiliates provide financing for the initial franchise fee or other costs that you will incur. Except as otherwise indicated, we anticipate that all payments will be non-refundable.

2. The cost of leasing space will vary depending primarily on the location.

Free-standing Restaurants. For a full-size restaurant of between 1,500 to 3,000 square feet, we estimate that you will need approximately 25,000 to 35,000 square feet of land to accommodate a prototype free-standing building, including adequate parking. The estimate in Chart 1 assumes that the building itself is leased at annual rate between \$40 and \$65 per square foot. The estimate provided in the chart is for twelve months of payments.

Food Court Locations. If you have a food-court Restaurant you will need between 500 to 900 square feet of space for the Restaurant, and we estimate that annual rental payments for these premises

will range from \$120 to \$250 per square foot. The estimate provided in the chart is for twelve months of payments.

In-Line Locations. If you have an in-line Restaurant, you will need approximately 1,500 to 2,500 square feet of space, and we estimate that annual rental payments will range from \$30 to \$55 per square foot. The estimate provided in the chart is for twelve months of payments.

Kiosk Operations. If you have a Kiosk, you will need between 125 - 200 square feet of space for the Kiosk, and we estimate that annual rental payments will range from \$20 to \$250 per square foot. The estimate provided in the chart is for twelve months of payments.

Mobile Units. The cost of leasing space to locate Mobile Units will vary depending on the type of location you select. With street locations, many are on a first-come, first-serve basis that may only require meter fees, if any. You may also negotiate individual agreements with owners of street-level real estate (such as parking lots and service stations), where arrangements may be either a lump sum per day or a percentage of Mobile Unit sales. With event locations (such as fairs and festivals), rent will likely be either a lump sum per event or a percentage of Mobile Unit sales (please also refer to note 23).

As explained above, the estimates indicate the period before opening during which we estimate you will have to pay rent. If you are able to negotiate more favorable terms, your costs will be lower. Conversely, if you need to pay rent for additional time before opening, if the market for the location you have chosen has higher rental rates due to high demand or other factors, or if the terms you are able to negotiate are not as favorable as those indicated, your costs will be higher.

Due to variations in the market conditions for commercial property from region to region, we are unable to provide an estimate of the cost of purchasing real estate for the Franchised Business. If you decide to purchase the land, the cost and outlay needed to do so will be considerably higher.

3. The range specified for Restaurant construction is based on our experience with our own Restaurants. If you construct a new free-standing building for the Restaurant you will be likely to incur this expense; other Restaurant formats (such as a food court or in-line unit) may not require this total expenditure. See note 4 for information on the leasehold improvements you must make for a food court or in-line unit.

If you elect to build your own premises, the estimated amount includes the estimated cost of constructing the Restaurant, if applicable, and the following:

- (a) Employing a qualified, licensed architect or engineer who is reasonably acceptable to us to prepare, for our approval, preliminary plans and specifications for site improvement and Restaurant construction, based on prototype plans that we provide to you.
- (b) Obtaining all zoning classifications and clearances that may be required by state or local laws, or that may be necessary and advisable in light of restrictive covenants set within your location. After having obtained these approvals and clearances, you must submit to us, for our approval, final plans for construction based upon your preliminary plans and specifications. Once we approve your final plans, you may not change those plans without our prior written permission.
- (c) Obtaining all permits and certifications required for the lawful construction and operation of the Restaurant.

- (d) Employing a qualified licensed general contractor to construct the Restaurant and to complete all improvements. You must also obtain and keep in force during the entire construction period the insurance coverage that is required under the Franchise Agreement.

Construction costs may vary, depending on the premises' size, condition, and location. The figure given in the chart does not include the cost of land (see note 2).

4. If you lease a space in a food court or an in-line unit, you will need to install leasehold improvements that comply with our specifications for a "Nathan's Famous" Restaurant. The cost will vary depending on the premises' size and condition.
5. Site preparation costs include improvements to the land necessary for Restaurant construction and operation as well as adjacent parking areas. If you construct a free standing building you will be likely to incur this expense. Other formats for the Restaurant probably will not require this expenditure.
6. You must purchase or lease certain items of equipment in order to open and operate the Restaurant. The cost will vary depending on the Restaurant's size and location.
7. You must buy enough inventory to open and operate the Restaurant according to our specifications. The cost of your opening inventory will vary depending upon factors such as the Restaurant's size and location, the range of menu items that will be offered, and whether you will be operating a Kiosk or a Mobile Unit.
8. You will incur expenses associated with our initial training program. Although we provide and pay for instructors and instructional materials, you must pay for transportation, lodging, food, and wages for you and your employees. These costs will depend on the distance you must travel to the training location, the type of accommodations you choose, and the number of personnel to be trained.

New York Metro Area. Our estimate for trainees who are in the New York metropolitan area assumes that travel will be by personal automobile and that the trainee will not stay in a hotel. The estimate also assumes that the trainee will not incur meal costs (lunch is provided for in the restaurant where training takes place). The estimate assumes that each person will incur \$10-\$25 per day in gas and tolls.

Travel to New York. For trainees who will travel to the New York metropolitan area, our estimate assumes that for each trainee, you will incur an average airfare of \$400, \$200 per day for hotel accommodations, and \$40 per day for meals.

For an extended menu restaurant, our estimate assumes that you will send three people to training for 17 days; for a limited menu restaurant, our estimate assumes that you will send two people to be trained for 10 days apiece.

Our estimates are only for out-of-pocket costs. We cannot predict, and our estimate does not account for, personal or incidental items, and we also do not estimate compensation (such as salary and benefits).

As noted in Item 11, under the subheading "Training," we may require you to send additional personnel to be trained, usually for reasons such as the number of menu items and scope of operations that you plan to feature at your franchised restaurant. If we require more people to attend

training than as described above, then you may incur costs greater than those estimated in the table. Of course, if your chosen mode of transportation or accommodations are more expensive than indicated in our assumptions, then your costs will be higher than those in the estimate that we have provided.

9. You must obtain and maintain the types and amounts of insurance described in Section 11 of the Franchise Agreement. The amount in the chart represents pre-opening expenses. In rare circumstances, you may need to pay the entire annual premium initially.
10. You must provide deposits for utilities. The amount of the deposits will vary depending upon where the Restaurant will be located and the practices of the utility companies and lessor. These deposits may be refundable. Security deposits paid to landlords are included in the row for "real estate" (see note 2 above). Utility expenses for a Mobile Unit are based on the vehicle's kitchen being powered by propane. If other sources of energy are used for a Mobile Unit, utility costs will vary from the estimate in the chart.
11. You may need to employ an attorney, accountant, architect, and other consultants.
12. Local, municipal, county and state regulations vary on what licenses and permits are required by you to operate a Restaurant. These fees are paid to governmental authorities before commencing business.
13. You will need to support ongoing expenses, such as payroll and utilities, to the extent these costs are not covered by sales revenue. New businesses often generate negative cash flow. We estimate that the amount stated will be sufficient to cover on-going expenses for the initial phase of the business, which we calculate to be three months. This is only an estimate, however, and we cannot assure you that you will not need additional working capital during or after this initial phase. We relied on our past experience in the franchised restaurant industry with franchisee and company-owned Restaurants when preparing these figures.
14. The construction figure reflects the estimated cost of purchasing a Kiosk from the single current approved supplier for Kiosks. The freight figure reflects the estimated cost of freight and installation for the Kiosk from the approved supplier to you (the figure assumes that you are located within the continental U.S.).
15. The figure in the chart is the estimated cost of purchasing an equipment package for an indoor Kiosk. This amount is included in the category "Furniture, Fixtures, and Equipment" in Charts 1 and 2.
16. The figure in the chart is the estimated cost of purchasing signs and graphics for use with an indoor Kiosk. This amount is included in the category "Furniture, Fixtures, and Equipment" in Charts 1 and 2.
17. The figure in the chart is the estimated cost of purchasing an approved point of sale (POS) cash register system for use with an indoor Kiosk. This amount is included in the category "Furniture, Fixtures, and Equipment" in Charts 1 and 2.
18. If you operate a Kiosk you may, under certain circumstances, wish to offer an expanded menu including items (such as french fries) that require a food preparation area. If so, you will incur certain additional costs to construct and equip a food preparation area.

19. You may qualify to operate an Arthur Treacher's Co-Branded Operation; if so, you must execute an "Arthur Treacher's" Participation Agreement.
20. Under the Franchise Agreement, you will be required to conduct, at your expense, a Grand Opening Advertising program. The cost of this Grand Opening Advertising program will be credited against your required contribution to the Marketing Development Fund, and is included in the estimate for start-up funds (see Note 13). We estimate that your outlay will be \$2,500. All advertising will be subject to our advance review and approval (as is the case for any proposed use of the marks and any proposed advertising).
21. Commissary charges for Mobile Units may be avoided if you have access to another facility that can be used, and is approved by applicable boards of health, for commissary use. The commissary charge includes the cost of storing and cleaning the truck.
22. The estimate in the chart is for the fuel cost required to operate the Mobile Unit, based on gasoline prices in the New York metropolitan area as of the date of this Disclosure Document (approximately \$3.65/gallon).
23. We estimate that this cost, which will be negotiated in each case with the event promoted, will range from \$100 - \$200 per day of the event, or 5%-10% of your gross sales at the event. You may encounter higher or lower charges from event promoters. We are unable to estimate your total event costs, because we cannot predict the number of events (if any) that you will attend in your area.

We have relied upon our collective experience in the food-service industry when preparing these estimated figures, including the amount of additional funds needed. You should review these figures carefully with an attorney and an accountant before making any decision to purchase this franchise.

## **Item 8**

### **RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

We do not require you to buy any items from us or our affiliates, nor do we or our affiliates routinely sell any items to our franchisees.

You must buy all food items, ingredients, equipment, supplies, materials, and other products used or offered for sale at the Franchised Business only from suppliers that we have approved in writing (and whom we have not subsequently disapproved). In determining whether we will approve any particular supplier, we will consider various factors, including: (a) whether the supplier can demonstrate, to our continuing reasonable satisfaction, the ability to meet our then current standards and specifications for such items; (b) whether the supplier has adequate quality controls and capacity to supply your needs promptly and reliably; (c) whether approval of the supplier would enable the System, in our sole opinion, to take advantage of marketplace efficiencies; and (d) whether the supplier will sign a confidentiality agreement and a license agreement in the form that we may require (which may include a royalty fee for the right to use our Proprietary Marks and any other proprietary rights, recipes, and/or formulae). If you want to buy any of these items from sources other than vendors we have already approved, you may submit a request to us in writing. Supplier approval might depend on product quality, delivery frequency, service standards, financial capability, customer relations, concentration of purchases with limited suppliers to obtain better prices, and a supplier's willingness to pay us for the right to do business with us and Restaurants under the System (and our right to use all amounts we receive without restriction, unless otherwise instructed by the supplier, and for services that we may render to suppliers), and concentration of purchases, as described below. We will have the right to require that our representatives be permitted to inspect the proposed

supplier's facilities, and that samples from the proposed supplier be delivered, either to us or to an independent laboratory that we designate for testing. We may ask that you or the proposed supplier pay a charge not to exceed the reasonable cost of the inspection and the actual cost of the test. We may also require that the proposed supplier comply with other requirements that we may deem appropriate, such as payment of reasonable continuing inspection fees and administrative costs. We reserve the right, at our option, to periodically re-inspect the facilities and products of any approved supplier and to revoke our approval if the supplier fails to continue to meet any of our then-current criteria. We will not be required to approve any particular proposed supplier, nor are we required to disclose to prospective suppliers our confidential standards, specifications, or formulas.

Our specifications and criteria for supplier approval are contained in the Product Specifications Manual (the "**Product Specifications Manual**") and are updated and revised periodically. When approving suppliers, we consider whether the products meet our specifications, whether the supplier's facility meets our specifications, and other quality, safety and sanitation factors. We will revoke our approval of a supplier if we determine that the supplier or its products or services no longer meet our standards. We will notify you in writing if we revoke our approval of a supplier or its products or services. If we notify you in writing that we have revoked our approval of a supplier, we may require you to stop selling the item(s) bought from that supplier and stop buying from the disapproved supplier. We must notify you in writing of our approval or disapproval of the proposed supplier. Depending on the circumstances and the product, the approval process ranges from thirty days to six months.

We may approve one or more distributors or other suppliers for any product and we may approve a distributor or other supplier only as to certain products. We may concentrate purchases with one or more distributors or suppliers to obtain lower prices, the best advertising support, or services for any group of Restaurants (or, for that matter, any group of restaurants operated in the "Nathan's Famous," "Kenny Rogers Roasters" and "Arthur Treacher's" systems). Our approval may also be for only a temporary period, pending our further evaluation of the distributor or other supplier. We (and our affiliates) may establish commissaries and distribution facilities that we will designate as an approved distributor or supplier.

Hot dogs offered and sold at the Restaurant are manufactured according to our secret recipes and are our proprietary products. In order to maintain and protect our rights in and to our proprietary products, you must purchase hot dogs only from our supplier(s) that we designate periodically. In order to maintain the high standards of quality and uniformity associated with hot dogs sold at all Restaurants in the System, you must not offer or sell any other hot dogs at or from the Restaurant. There are currently two companies that we designate to supply hot dogs to Restaurants using the System: Smithfield Foods, Inc. ("**Smithfield Foods**") of Smithfield, Virginia, and Marathon Enterprises, Inc. ("**Marathon**") of Bronx, New York. Neither Smithfield Foods nor Marathon are affiliates of ours. We estimate that the purchase of hot dogs accounts for less than 1% of the cost to establish a Restaurant and approximately 7.5% to 12% of total operating expenses after the Restaurant opens.

Under agreements with Smithfield Foods and Marathon, they may make a contribution to the Marketing Development Fund based upon the purchase of hot dogs by Restaurants using the System. We may periodically make similar arrangements with other manufacturers and suppliers to the System. We will put these into the Marketing Development Fund, and will use them according to the rules governing the use of the Marketing Development Fund. Although the Marketing Development Fund will derive income, we do not derive income as a result of these purchases by you.

We recommend, but do not require, that you purchase other products for use in your Restaurant. Under an agreement with certain soft drink suppliers, food suppliers, and other operational service suppliers, those suppliers may pay us rebates based upon purchases by franchised and company-owned Restaurants. Some, but not all, of these rebates will be directed to the Marketing Development Fund; we

will take the remainder into income. These rebates include both up-front payments and payments based on usage/purchases by Restaurants in the System. We anticipate that, with up-front payments prorated over the life of our supply agreements, the total rebates received by the Marketing Development Fund and us will equal approximately 4.0% to 6.5% of purchases by both company-owned and franchised Restaurants in the System. However, if purchases by Restaurants in the System are less than we currently project over the life of the agreement, the percentage of rebates against total purchases will be higher.

Neither we nor our affiliates are the approved supplier for any product or service required for the establishment or operation of your franchised restaurant. Accordingly, neither we nor our affiliates derive any income from direct purchases of required goods and services. We will, however, receive revenue, rebates, and other income in connection with purchases made by operators of Branded Menu Program Operations of products, paperware, and equipment. As noted above, NFSI and NF Treacher's may also receive rebates as a result of your purchases from certain approved suppliers.

During NFSI's fiscal year ended March 26, 2023, NFSI received revenue (in the form of rebates) from franchisees' and licensees' purchases from approved suppliers in the amount of \$522,441, or approximately 0.4% of NFSI's total revenues of \$119,063,975. During NF Treacher's fiscal year ended March 26, 2023, NF Treacher's received revenue (in the form of rebates) from franchisee purchases from approved suppliers in the amount of \$25,173, or approximately 27.4% of NF Treacher's total revenues of \$92,030.

Additionally, NFOC (our affiliated entity which owns and operates all of the company-owned Nathan's Famous restaurants) may receive rebates from these same suppliers; however, these rebates are directly related to purchases made by the company-owned Restaurants (as opposed to purchases made by franchised Restaurants). During the fiscal year ended March 26, 2023, NFOC earned revenue from these rebates (with up-front payments prorated over the life of our supply agreements) in the amount of \$12,654, or 0.01% of NFOC's total consolidated revenues of \$130,785,000.

We estimate that the purchase of items from approved suppliers or otherwise according to our specifications will represent approximately 90% to 100% of your total purchases and leases in establishing and operating the Restaurant.

You must serve all of the items on our standard menu, without departing from that standard menu. If you develop or wish to offer any new or additional menu items, you must first obtain our written approval. We will have sole discretion as to whether any new or additional menu item may be offered or sold at your Restaurant. The process for obtaining approval requires you to submit to us a written request seeking approval of the proposed new or additional menu item(s), and any additional related information that we may request. When you submit the information to us, the proposed new or additional menu items will become our property, and you will be required to sign and, where we request, cause to be signed, the documents we deem necessary in order to implement this requirement. We may approve proposed menu items for sale at a limited number of Restaurants as part of a limited-market test or for other reasons. Unless we indicate otherwise, our approval under those circumstances will not extend to all franchisees under the System.

As noted in Item 11, we will have the right to review and approve all marketing plans and promotional materials that you propose to use. You may not implement any marketing plan or use any promotional material without our prior written consent.

We have negotiated purchase arrangements with suppliers for the benefit of our franchisees. We currently have approximately 215 purchase arrangements in existence for food, paper, signs, and equipment, providing price discounts ranging from 15% to 33%.

We do not confer material benefits on our franchisees based on use of designated or approved suppliers. None of our officers owns an interest in any companies that are vendors or suppliers to our franchisees.

### Computer System

You must buy (or lease) and maintain a computer system. More detailed information concerning the computer system can be found in Item 11 of this disclosure document under the heading "Computer System." In general terms, you will be required to install, maintain, and at all times operate the computer hardware and software, including peripheral devices and equipment, that we specify in the Manual or otherwise in writing as reasonably necessary for the efficient management and operation of the Restaurant and the transmission of data to and from us.

### Insurance

Under the Franchise Agreement, you must obtain and maintain the following insurance:

- commercial general liability insurance protecting against any and all claims for personal, bodily and/or property injury occurring in or about the Restaurant and protecting against assumed or contractual liability under the Franchise Agreement with respect to the Restaurant and your operations, with minimum limits of \$2,000,000 combined single limit per occurrence and \$2,000,000 general aggregate per location (at our election, such minimum limits may be increased);
- comprehensive automobile liability insurance, including owned, non-owned and hired car coverage providing third party liability insurance, covering all licensed vehicles owned or operated by or on your behalf, with limits of liability not less than \$1,000,000 combined single limit for both bodily injury and property damage;
- statutory workers' compensation insurance and employers' liability insurance for a minimum limit equal to at least the greater of \$100,000 or the amounts required as underlying by your umbrella carrier, as well as such other disability benefits type insurance as may be required by statute or rule of the state in which the Restaurant is located;
- if you are authorized by us to offer liquor for sale at the Restaurant, then liquor liability insurance must be included within your commercial general liability insurance coverage, with limits as specified above;
- food borne illness, accidental and malicious contamination coverage, with minimum coverage of at least \$1,000,000;
- data theft and cybersecurity coverage, with minimum coverage of at least \$1,000,000;
- Commercial umbrella liability insurance with limits which bring the total of all primary underlying coverages (commercial general liability, comprehensive automobile liability, employers' liability and liquor liability) to not less than \$3,000,000 or \$5,000,000, as determined by us in our sole discretion;
- Employment practices liability coverage, including first and third party coverage, with minimum coverage of at least \$1,000,000; and

- property insurance providing coverage for direct physical loss or damage to real and personal property for all-risk perils, including the perils of flood and earthquake (and covering boiler and machinery exposures and business interruption/extra expense exposures, written on an actual loss sustained basis). The policy or policies shall value property (real and personal) on a new replacement cost basis without deduction for depreciation and the amount of insurance shall not be less than the full replacement value of the Restaurant, its furniture, fixtures, equipment, and stock (real and personal property). Any deductibles contained in such policy shall be subject to our review and approval.

Each policy must be written by an insurance company or companies reasonably satisfactory to us, having a current Best's rating of at least A XIII. All policies must waive subrogation as between us (and our insurance carriers) and you (and your insurance carriers). All policies must be primary to and without right of contribution from any other insurance policy purchased by us. All liability and property damage policies must name us and any affiliates we designate as additional insureds and must provide that each policy cannot be cancelled unless we are given ten days' prior written notice in the case of non-payment of the premium or thirty days' prior written notice in other cases. We have the right to periodically make changes to minimum policy limits and endorsements. You must deliver to us (and in the future maintain on file with us) valid and current certificates of insurance showing that all required insurance is in full force and effect.

## Item 9

### FRANCHISEE'S OBLIGATIONS

**This table lists your principal obligations under the Franchise Agreement, Area Development Agreement, and Participation 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 Agreement	Disclosure Document Item
a. Site selection and acquisition/lease	§§ 1 and 5 of Franchise Agreement; §§ 1, 3, and Exhibit A of Area Development Agreement; §§ 4, 5, 6 and 7 of Deposit Agreement	5, 6, 7, and 11
b. Pre-opening purchases/leases	§ 5 of Franchise Agreement; § 2 of Participation Agreement	5, 7, and 8
c. Site development and other pre-opening requirements	§§ 3 and 5 of Franchise Agreement; § 3 and Exhibit A of Area Development Agreement	8 and 11
d. Initial and ongoing training	§§ 3 and 5 of Franchise Agreement	11
e. Opening	§ 5 of Franchise Agreement	11

<b>Obligation</b>	<b>Section in Agreement</b>	<b>Disclosure Document Item</b>
f. Fees	§§ 2, 4, 13 and 16 of Franchise Agreement; §§ 2, 3, and 7 of Area Development Agreement; § 3 of Participation Agreement	5 and 6
g. Compliance with standards and policies/operating manual	§§ 5, 7, 8 and 10 of Franchise Agreement; § 5 of Area Development Agreement; § 2 of Participation Agreement	8, 11, and 14
h. Trademarks and proprietary information	§§ 9 and 11 of Franchise Agreement; § 1 of Area Development Agreement; § 4 of Participation Agreement	13 and 14
i. Restrictions on products/services offered	§ 7 of Franchise Agreement; § 2 of Participation Agreement	5, 8, and 16
j. Warranty and customer service requirements	§ 8 of Franchise Agreement	16
k. Territorial development and sales quotas	§ 1 of Franchise Agreement; Exhibit A of Area Development Agreement	12
l. Ongoing product/service purchases	§ 8 of Franchise Agreement; § 2 of Participation Agreement	8
m. Maintenance, appearance, and remodeling requirements	§§ 2 and 5 of Franchise Agreement	8
n. Insurance	§ 15 of Franchise Agreement; § 6 of Participation Agreement	7 and 8
o. Advertising	§ 13 of Franchise Agreement; §§ 4 and 5 of Participation Agreement	6, 8, and 11
p. Indemnification	§ 21 and Exhibit B of Franchise Agreement; § 11 and Exhibit B of Area Development Agreement; § 10 of Participation Agreement	6 and 13
q. Owner's participation/management/staffing	§§ 8 and 19 of Franchise Agreement; §§ 5 and 8 of Area Development Agreement	15
r. Records and reports	§ 12 of Franchise Agreement; § 3 of Participation Agreement	6

	<b>Obligation</b>	<b>Section in Agreement</b>	<b>Disclosure Document Item</b>
s.	Inspections and audits	§§ 3, 8, and 12 of Franchise Agreement; § 3 of Participation Agreement	6 and 11
t.	Transfer	§ 16 of Franchise Agreement; § 7 of Area Development Agreement; § 9 of Participation Agreement	17
u.	Renewal	§ 2 of Franchise Agreement	17
v.	Post-termination obligations	§ 18 of Franchise Agreement; § 8 of Participation Agreement	17
w.	Non-competition covenants	§ 19 of Franchise Agreement; § 8 of Area Development Agreement	17
x.	Dispute resolution	§ 27 of Franchise Agreement; § 15 of Area Development Agreement	17
y.	Taxes/permits	§§ 5 and 20 of Franchise Agreement; § 10 of Area Development Agreement	1 and 7
y.	Other: Personal Guarantee	Exhibit B of Franchise Agreement; Exhibit B of Area Development Agreement	15

#### Item 10

#### FINANCING

Neither we nor any agent or affiliate offers direct or indirect financing to you, guarantees any note, lease or obligation of yours, or have any practice or intent to sell, assign, or discount to a third party all or part of any financing arrangement of yours.

#### Item 11

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

Listed below are our obligations under the Franchise Agreement, Deposit Agreement, and Area Development Agreement. **Except as listed below, we are not required to provide you with any assistance.**

## **Pre-Opening Obligations**

### **1. Area Development Agreement**

Under an Area Development Agreement, we will agree to provide you with the following assistance:

- a. Site selection guidelines, including our minimum standards for a location for the Franchised Business and other site selection counseling and assistance as we may deem advisable. (Area Development Agreement, Section 5.1.1.)
- b. On-site evaluation, as we deem advisable, in response to your request for site approval (Area Development Agreement, Section 5.1.2.)

### **2. Deposit Agreement (if applicable)**

If you sign a Deposit Agreement, we will agree to provide you with:

- a. Site selection counseling and assistance (Deposit Agreement, Section 6).
- b. An indication of the basic terms necessary to obtain our approval of a lease (Deposit Agreement, Section 7).
- c. On-site evaluation, as we deem advisable, in response to your request for site approval (Deposit Agreement, Section 6).

### **3. Franchise Agreement**

If you sign a Franchise Agreement, we will agree to:

- a. Provide an initial training program, at a location we designate, for you and your management employees. At least three of your management employees (which number we will determine) must complete the training to our satisfaction before you may open the Restaurant. If you are adding a co-branded concept to the Restaurant, the training will include all subjects necessary to the co-branded concepts. We will provide ongoing training that we deem appropriate. We will be responsible for the cost of instruction and materials, subject to the terms of the Franchise Agreement; you will pay all other costs (e.g., transportation) incurred to attend training (see Items 6 and 7 above). (Franchise Agreement, Sections 3.1 and 6.1)
- b. Provide prototype plans and specifications for constructing the Restaurant and for the exterior and interior design and layout, fixtures, furnishings, equipment, and signs. (Franchise Agreement, Section 3.2)
- c. Provide a representative to be present at the Restaurant's opening, if you have five or fewer Restaurants operating under the System. We will provide additional on-site pre-opening and opening supervision and assistance to the extent we deem it advisable. (Franchise Agreement, Section 3.3)
- d. Lend you a copy of the Manual, for the duration of the Franchise Agreement. (Franchise Agreement, Section 3.4)

- e. Inspect the Restaurant for opening before you open. You may not open the Restaurant for business unless you have our prior written approval. (Franchise Agreement, Section 3.7)

### **Continuing Obligations**

Under the Franchise Agreement, we will provide the following assistance and service to you:

- a. We may conduct, as we deem advisable, periodic inspections of the Restaurant, and may provide evaluations of the products sold and services rendered by the Franchised Business. (Franchise Agreement, Section 3.7)
- b. We will make available additional training programs, as we deem appropriate. (Franchise Agreement, Section 6.4)
- c. We will provide you periodic assistance in the marketing, management, and operation of the Franchised Business, and we will periodically offer you the services of certain of our representatives, such as an accounting manager, and these representatives will periodically visit your Franchised Business and offer advice regarding your operations. (Franchise Agreement, Section 3.8)
- d. We will administer the Marketing Development Fund (as defined below) in the manner described in the Franchise Agreement. (Franchise Agreement, Section 3.6)

### **Marketing Development Fund**

We have established a marketing development fund (the "**Marketing Development Fund**"). We will administer the Marketing Development Fund as follows:

1. We or our designee will direct all marketing programs, as well as all aspects thereof, including the concepts, materials, and media used in, and the placement and allocation of, the programs. The Marketing Development Fund is intended to maximize general public recognition, acceptance, and use of the System and our affiliated brands; and we or our designee are not obligated, in administering the Marketing Development Fund, to make expenditures for you that are equivalent or proportionate to your contribution, to ensure that any particular franchisee benefits directly or pro rata from expenditures by the Marketing Development Fund, or to ensure that expenditures related to the Proprietary Marks, the marks of our affiliated brands, and/or the different channels of trade we have developed (including the Remote Kitchen Channel) are proportionate or equivalent to contributions made.

2. We will use the Marketing Development Fund, all contributions made to it, and any earnings on it, only for preparing and administering advertising, marketing, merchandising, public relations, and promotional programs and materials, and any other activities that we believe will directly or indirectly enhance the image of the System. Among other things, we may use the Marketing Development Fund to pay the cost of preparing and conducting media advertising campaigns; direct mail advertising; marketing surveys; employing advertising and public relations agencies to assist us; purchasing promotional items; and providing promotional and other marketing materials and services to the businesses operating under the System. The Marketing Development Fund may also be used to provide rebates or reimbursements to you for local expenditures on products, services, or improvements that we approve and that we believe will promote general public awareness and support of the System.

3. You must contribute to the Marketing Development Fund by separate checks made payable to the Marketing Development Fund. (See Item 6 for the amount of the contribution). We will maintain all

sums paid to the Marketing Development Fund in an account separate from our other monies. We will not use them for any of our expenses, except for reasonable costs and overhead, if any, that we incur in activities reasonably related to the direction and implementation of the Marketing Development Fund and advertising programs for franchisees and the System. These costs may include costs of personnel responsible for creating and implementing advertising, promotional, and marketing programs. The Marketing Development Fund and any earnings on it will not otherwise benefit us. We, or someone we designate, will maintain separate bookkeeping accounts for the Marketing Development Fund. (Franchise Agreement, Section 10.4.3).

4. Upon request, we will provide you with an annual accounting of receipts and disbursements of the Marketing Development Fund. During our last fiscal year, the Marketing Development Fund was spent as follows:

- 55.3% production (including agency fees; production of marketing materials (POP); photography; menu boards; event production)
- 4.2% media placement (paid media)
- 1.8% administrative expenses
- 38.7% other (including sponsorships, branded events).

You may not implement a promotional plan, nor may you use any advertising materials until you have received our written approval under the process described in the Franchise Agreement. (Franchise Agreement, Section 10.8). You must advertise the Franchised Business in the white and principal yellow pages directories, as described in the Manual. (Franchise Agreement, Section 10.9). You must submit samples of all marketing and promotional plans and materials to us for our review and approval.

To the extent that we disseminate advertising, we typically do so in print, radio and television, on a local, regional, and national basis. We use a local and a regional marketing consulting firm to prepare advertising for the Marketing Development Fund. If we do not use all of the amounts in the Marketing Development Fund in the year in which they accrue, we will use these amounts in the next fiscal year. We do not use any money from the Marketing Development Fund for advertising that is principally a solicitation for the sale of franchises. Except as described above, neither we, nor any affiliate, receives any payment for providing goods or services to the Marketing Development Fund. Company-owned units and remote kitchens operating under the Remote Kitchen Channel contribute to the Marketing Development Fund. The obligation to contribute to the Marketing Development Fund may be reduced for some franchisees in certain instances when their Restaurant(s) are located outside of our core markets (e.g., the New York Metropolitan area, New England, the Mid-Atlantic region, Southern Florida, etc.) or when their Restaurant(s) are located inside of captive market environments. The obligation to contribute to the Marketing Development Fund may also be reduced for remote kitchens operating under the Remote Kitchen Channel. For more information on the Marketing Development Fund, see Items 6 and 8.

### **Regional Marketing Development Fund**

We may establish a regional marketing development fund in the geographic area in which your Restaurant is located (a "Regional Fund"). If a Regional Fund has been established in the geographic area in which your Restaurant is located when you begin operation, you must immediately become a member. If a Regional Fund is established during the term of your Franchise Agreement, you must become a member within thirty days after Regional Fund begins operation. You will not be required to become a member of more than one Regional Fund.

Regional Funds will be administered as follows:

1. The Regional Fund will be used exclusively to administer regional advertising programs and develop standard promotional materials for use in local advertising. All promotional materials are subject to our prior approval.
2. We will require you to contribute a specified amount to the Regional Fund together with other statements and reports that we may require.

### **Local Advertising and Promotion**

We recommend, but do not require, that you spend additional amounts on Local Advertising and Promotion ("Local Advertising and Promotion").

Certain criteria will apply to any Local Advertising and Promotion that you conduct. All of your Local Advertising and Promotion must be dignified, must conform to our standards and requirements, and must be conducted in the media, type, and format that we have approved. You may not use any advertising or promotional plans that we have not approved in writing. You must submit to us samples of all proposed plans and materials (unless, within the previous six months, we prepared or already approved the plans or materials). We will ordinarily provide you with our response (whether approval or disapproval) to the proposed plans or materials within two weeks; but if we do not give our approval within fifteen days, we will have been deemed to disapprove the plans or materials.

All copyrights in and to advertising and promotional materials you develop (or that are developed for you) will become our sole property. You must sign the documents (and, if necessary, require your independent contractors to sign the documents) that we deem reasonably necessary to implement this provision.

As discussed in Items 6 and 7, you must conduct Local Advertising and Promotion that we direct for your Restaurant's initial opening (the "Grand Opening Advertising Program"). The amount you spend for your Grand Opening Advertising Program will be credited towards your required contribution to the Marketing Development Fund. We encourage you to spend additional amounts on Local Advertising and Promotion for the opening of your Restaurant. All materials used in the Grand Opening Advertising Program will be subject to our prior written approval, as described above. The Grand Opening Advertising Program is considered Local Advertising and Promotion and is therefore subject to the restrictions described below.

We will periodically make available to you, for purchase, certain advertising plans and promotional materials for your use in Local Advertising and Promotion.

As used in this disclosure document, the term "Local Advertising and Promotion" refers to only the direct costs of purchasing and producing advertising materials (such as camera-ready advertising and point of sale materials), media (space or time), promotion, and your direct out-of-pocket expenses related to costs of advertising and sales promotion in your local market or area. Local advertising and promotion also includes associated advertising agency fees and expenses, postage, shipping, telephone, and photocopying costs. Local Advertising and Promotion does not, however, include any of the following:

- (a) Salaries and expenses of your employees, including salaries or expenses for attendance at marketing meetings or activities, or incentives provided or offered to such employees, including discount coupons;
- (b) Charitable, political, or other contributions or donations;
- (c) The value of discounts given to consumers; and
- (d) The cost of food, beverage and merchandise items.

### **Online Sites**

Online Sites (as defined below) are considered as "advertising" under the Franchise Agreement, and are subject (among other things) to our review and prior written approval before they may be used (as described above). As used in the Franchise Agreement, the term "**Online Site**" means one or more related documents, designs, pages, or other communications that can be accessed through electronic means, including, for example, the Internet, World Wide Web, webpages, microsites, social networking sites (e.g., Facebook, Twitter, LinkedIn, You Tube, Google Plus, Pinterest, etc.), blogs, vlogs, applications to be installed on mobile devices (e.g., iOS or Droid apps), and other applications, etc., and that refers to the Restaurant, Proprietary Marks, us, or the System. In connection with any Online Site, the Franchise Agreement provides that you may not establish an Online Site, nor may you offer, promote, or sell any products or services, or make any use of the Proprietary Marks, through the Internet without our prior written approval. As a condition to granting consent, we will have the right to establish any requirement that we deem appropriate, including for example a requirement that your only presence on the Internet will be through one or more webpages that we establish on our website.

### **Computer Systems**

At this time, we require our franchisees to buy an approved computer hardware and software point of sale (POS) system. The POS and computer system will be required to use our approved interface (high speed telecommunication connection) to communicate electronically with our own system. The cost of purchasing computer hardware and software for the Restaurant will vary for each Restaurant depending upon the Restaurant's size, style and format, but we currently estimate the cost of purchasing the required POS system and computer hardware and software to be approximately \$20,000.

Some of the hardware and software that you will use is the proprietary property of third parties. We have not approved any hardware or software in place of these systems and programs, although we reserve the right to do so in the future. We have the right to specify the brands, types, makes, and models of your computer system. You will have to abide by our requirements concerning the computer system, including: (a) back office and point of sale systems; (b) systems to store data, including audio and video, as well as systems to retrieve and transmit that data between your franchised business and us; (b) security systems (physical, electronic, and other); (c) printers and other peripheral devices; (d) archive (back-up) systems; and (e) internet access mode (for example, your telecommunications connection, such as broadband) and speed.

We reserve the right to have independent access to your computer for the purpose of downloading sales and other data. There is no contractual limitation on our right to receive this information. All data that you provide, that we download from your system, and that we otherwise collect from you is owned exclusively by us, and we will have the right to use that data in any way that we deem appropriate without compensating you.

We reserve the right to require you to bring any computer hardware and software, related peripheral equipment, communications systems, as well as the cash register system, into conformity with our then-current standards for new Restaurants. Except as described above regarding the acquisition and maintenance of the POS system for the Restaurant, we have no obligation to assist you in obtaining hardware, software or related services and there are no contractual limits on the frequency or cost of your obligations to obtain these upgrades. The cost you will incur to maintain, update and upgrade the cash registers and computer system will depend on the type of equipment that you select, but we estimate these costs to be about \$6,700 per year.

## **Manual**

The table of contents from our Manual is appended to this disclosure document as Exhibit M. The number of total approximate pages is as follows:

Manual – 347 pages

Supplemental Prep Manual – 66 pages Total – Approx. 413 pages

## **Site Selection**

### **Deposit Agreement**

After you sign the Deposit Agreement and pay us a deposit of \$5,000, you will have 180 days to secure an approved location for your Restaurant.

You must acquire or lease (at your own expense) a location for the Restaurant. The location will be subject to our approval (Deposit Agreement, Section 7). You must submit a completed site approval form and other information or materials as we may reasonably require. We will have thirty days after receipt of your information and materials to approve the proposed site (Deposit Agreement, Section 7). If we do not approve a proposed site within thirty days, the site is not approved. Within sixty days of your receipt of a draft of lease, you must sign a lease, after obtaining our prior written approval of the lease terms (if the premises are to be leased), or a binding agreement to purchase the site (Deposit Agreement, Section 7). If we cannot agree upon a site for the franchised restaurant within 180 days after execution of the Deposit Agreement, the Deposit Agreement will terminate, we will not enter into a Franchise Agreement with you, and upon your written request, we will refund you the deposit, minus our actual expenses incurred for performance of our obligations under the Deposit Agreement, upon all of the parties' execution of a mutual termination and release agreement. (Deposit Agreement, Section 11).

You must submit the lease for the premises to us for our review before executing the lease (Deposit Agreement, Section 7). Our approval of a lease or sublease may be conditioned the inclusion in the lease of the provisions that we may reasonably require (Deposit Agreement, Section 7). These terms may include, among other things, a provision that reserves for us the right to elect to receive an assignment of the leasehold interest upon termination or expiration of your lease or of the Franchise Agreement, and a provision that the landlord will provide us with copies of any and all notices of default given to you under the lease. For more information, see the Deposit Agreement (attached to this disclosure document as Exhibit G).

### **Area Development Agreement**

If you are an Area Developer, for each Restaurant you wish to open under the Area Development Agreement, you will be required to submit a completed site approval package to us (the "**Site Approval Package**") and other materials which we may reasonably require. You will be required to obtain site

approval for the first Restaurant developed under the Area Development Agreement within six months of the date the Area Development Agreement was executed. If you do not submit acceptable sites, you will not be able to develop Restaurants and you may not be able to meet your obligations under the Development Schedule, which, in turn, may be a default under the Area Development Agreement.

Under the Area Development Agreement, we will expend such time and effort as reasonably necessary to inspect the proposed site, and will inspect the first site you propose at our expense; however, you must reimburse us for any expenses we incur in inspecting any additional site(s). We will, at our sole discretion, approve or disapprove of the proposed site(s) for a Restaurant and notify you of our decision within thirty days after we receive the complete Site Approval Package and any other materials we may request containing all information we reasonably require to evaluate the proposed site(s).

Our standard site selection criteria include demographic characteristics, traffic patterns, parking, character of neighborhood, competition from other businesses within a site search area, the proximity to other businesses, the nature of other businesses in proximity to the site and other commercial characteristics, and the size, appearance and other physical characteristics of the premises.

Our consent to the development of a site may be subject to reasonable conditions imposed by us. Our consent to the development of a site is not a representation or a promise by us that your Restaurant will achieve a certain sales volume or a certain level of profitability. Our consent only indicates our willingness to be represented by you at that site.

### **Opening the Franchised Business**

We estimate that the typical length of time between signing the Franchise Agreement and opening the Restaurant will range from three to four months for an existing facility and six to eight months for ground-up, new construction. Factors which may affect this time period include the availability of the site for renovation, completing construction and obtaining permits and licenses for the construction of the Restaurant. You must open the Restaurant not later than one year after the date you sign the Franchise Agreement; and if you do not do so, we will have the right to terminate the Franchise Agreement immediately upon notice to you.

If you will be operating a Kiosk or Mobile Unit, we estimate that the length of time between signing the Franchise Agreement and Kiosk Amendment or Mobile Unit Amendment and opening the Kiosk Restaurant or Mobile Unit will be approximately seven to eight weeks. If you will be operating in a food court or and in-line unit, we estimate that the length of time between signing the Franchise Agreement and opening the in-line or food court Restaurant will be approximately three to four months.

If you have signed an Area Development Agreement, we estimate that the time from execution of the Area Development Agreement to the opening of the first Restaurant under the Development Schedule (and under a separate Franchise Agreement) will be approximately six to twelve months.

### **Training**

Before opening the Franchised Business, you (or if you are a corporation or partnership, a principal of the corporation who is approved by us and designated to supervise the Restaurant) must attend and complete to our satisfaction the initial training program we offer. If you are adding a co-branded operation to the Restaurant, the training will include all subjects necessary to operate the co-branded concepts. An additional number (at least three) of your designated management employees who we have pre-approved may also be required to attend and successfully complete the training program (the "**Specially Trained Management Employees**") to our satisfaction. We will have the right to determine the number of Specially

Trained Management Employees, and we may increase or decrease the number of Specially Trained Management Employees required to attend and complete training to our satisfaction. You must maintain the requisite number of Specially Trained Management Employees as employees of the Restaurant during the term of the Franchise Agreement. If you or any Specially Trained Management Employee stops being actively employed at the Restaurant, you must enroll a qualified replacement, acceptable to us, in our training program within thirty days. The replacement must attend and complete the training program as soon as possible. We will conduct our initial training program as follows:

### TRAINING PROGRAM

Subject	Number of Hours of Classroom Training	Number of Hours of On-the-Job Training	Location
Food Preparation and Equipment Operation	N/A	32 - 60 (Note 1)	One of NFOC's company-owned Restaurants in the New York metropolitan area, or at our corporate headquarters in Jericho, NY
Sanitation (Note 2)	1	N/A	"
Food Cost	3	3	"
Labor Scheduling	3	N/A	"
Train the Trainer (Note 3)	1	4	"
Customer Service	1	N/A	"
Performance Review (Note 3)	1	N/A	"

Notes:

- The length of the class will vary based on the menu level for the Restaurant. Length of time can also vary based upon the participant's previous experience and ability to learn the "Nathan's Famous" System. The frequency with which the subjects are taught will vary between two to three times per month and bi-monthly, depending on the subject. Certification will be awarded at each level based on the participant's ability to perform. The participant must demonstrate the capacity to effectively execute the responsibilities inherent in the position which the certification is being awarded.

Below is the required Minimum Certified Management Table of Organization for various "Nathan's Famous" Restaurant prototypes:

Size of Facility	Scope of Menu	Operational Complexity	Minimum Mgt. Table of Organization and Training Time

I. Kiosk or Mobile Unit	Franks & fries or chicken and burgers, beverages	Simple	1 person: 1 Shift Manager (1-3 weeks)
II. Food Court/Small In-line with Dining Room	Franks, fries, burgers, cheesesteaks, chicken sandwiches and beverages	Moderately complex	At least 2 people: 1 GM (2-3 weeks) see (b) below 1 Manager (2-3 weeks) 1 Shift Manager (2-3 weeks)
III. Free Standing	Franks, fries, snacks, burgers, chicken sandwiches, cheese steaks, breakfast, chicken tenders, milk shakes, beverages	Very complex; possibly includes a drive-thru	At least 3 people: 1 GM (2-3 weeks) see (b) below 1 Manager (2-3 weeks) 1 Shift Manager (2-3 weeks)

Restaurants will not be able to open before the Table of Organization for the prototype is filled.

- (a) The General Manager Candidate for the Kiosk and Mobile Unit format must have a minimum of 6 months experience as a restaurant manager.
  - (b) The General Manager Candidate for the Food Court/In-line or Free Standing format must have a minimum of 6 months experience at a general manager level or 1 year experience at the restaurant manager level.
2. Proof of a current food handler certificate will exempt the individual from attending.
  3. You will have the option to attend this program.

We conduct our training program two to three times per quarter. Our initial training program will be supervised by Jim Hicks, our Senior Director of Operations Services and Training. Jim joined us in January 2020 and has over 30 years' experience in senior management positions within the restaurant industry and has led Operations and Training for multiple concepts including El Pollo Loco, Fresh Enterprises, and Johnny Rockets Restaurants.

Our classroom training will take place at one of NFOC's company-owned Restaurants in the New York metropolitan area or at our corporate headquarters in Jericho, New York. When in the Restaurant environment, adherence to all policies and personal appearance standards is mandatory. You and your

Specially Trained Management Employees must also attend additional refresher courses, seminars, and training programs that we periodically and reasonably may require. For all required initial and additional training courses, we will provide, at no charge to you, instructors and training materials. You and your Specially Trained Management Employees will be responsible for all other expenses which you incur within the courses, including the cost of transportation, lodging, meals, and wages.

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## Item 12

### TERRITORY

#### **Area Development Agreement**

If you are an Area Developer and you comply with your obligations under the Area Development Agreement, we will not establish or license anyone other than you to establish a Restaurant under the System in your Development Area, until the end of the period of time specified in the Development Schedule to your Area Development Agreement, except that we will reserve all of the rights described below. The Development Area under your Area Development Agreement will not include any non-traditional venues, including, for example, toll roads, interstate highways, college campuses, hospitals, sports arena/stadiums, convention centers, office buildings, discount department stores, home improvement centers, service station/convenience stores, or airports. The Development Area will be mutually agreed upon on the basis of our mutual discussion and negotiation.

Except for the requirement that you be in compliance with your obligations under the Area Development Agreement (including for example the development schedule), continuation of your rights under the Area Development Agreement, as described above, is not subject to achieving any particular sales volume, market penetration, quota, or other benchmark. We may not modify your territorial rights.

#### **Franchise Agreement**

Under the Franchise Agreement, you are authorized to operate a "Nathan's Famous" Restaurant from a specified location, which we must approve. You may not relocate the Restaurant without our consent.

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 (including the Remote Kitchen Channel) or competitive brands that we control. Similarly, we or our designees may sell Grocery Products, Bulk Products or Branded Products to customers for resale at any location, and some of these locations may seem to or actually compete with your location. We will not compensate you for sales we make through other channels (such as Grocery Products, Bulk Products, or Branded Products). You may only offer and sell from the Approved Location to retail customers: (1) face-to-face, for consumption on the Restaurant premises; (2) face-to-face, for personal carry-out consumption; or (3) for catering or delivery (to customers' homes, offices, and other locations), except that we have the right to revoke our approval of Catering and Delivery at any time. However, there are no other restrictions on the customers you may serve at the Restaurant. You will not have the right to use other channels of distribution to sell any products (such as Grocery Products, Bulk Products or Branded Products).

We have the right to approve or disapprove any activity(ies) proposed to take place outside the Restaurant, including delivery and catering activities. We will consider various factors in determining whether to permit you to provide delivery or catering services from your Restaurant, including the period of time you have been operating your Restaurant, your sales volume, whether you have met certain quality standards and other benchmarks, and other standards that we may determine. In addition:

- You will not be able to engage in delivery and/or catering services, wherever offered, without our prior written consent.
- All delivery or catering activities that you undertake will have to be conducted according

to our procedures.

- We may (but are not required to) establish a catering program that will include online and telephone ordering features, on our own or in conjunction with one or more outside vendors (the “**Catering Program**”). If we establish a Catering Program, you will be required to participate and pay the fees and costs associated with doing so. To participate in the Catering Program, you must also implement certain credit card processing programs.
- We have the right to require that you conduct delivery only through Restaurant staff or approved third-party delivery vendors. We will have the ongoing right to approve or disapprove of all delivery services and other vendors (including aggregators and all other providers of goods and services relating to catering or delivery), including the arrangements that you propose to make with any third-party delivery vendor.

You will not receive the right to acquire additional franchises in your area.

### **Mobile Unit Amendment**

Under a Mobile Unit Amendment, you must serve food from the Mobile Unit only at fixed locations we approve. You may not operate the Mobile Unit in residential neighborhoods for the purpose of stopping at customers’ request (as in the manner of an ice cream truck), nor drive the Mobile Unit from one work site to another to serve food (in the manner of a lunch truck). With regard to Mobile Units:

- a. You must provide us with at least 15 days' prior written notice (the "**Notice**") of every proposed location and/or event at which the Mobile Unit will be parked and serving food (together, "**Locations**"). The Notice must be in the form we require and must include at least the following information relating to each Location: (i) the exact address of the Location, (ii) a description of the position of the Mobile Unit at the Location in diagram form, (iii) the proposed hours and days of operation, (iv) a description of the Surrounding Areas (defined below), and (v) a description of any events anticipated to occur at or near the Location.
- b. If we do not approve the Location(s) proposed in the Notice within seven days after receipt of the Notice from you, then the Location(s) proposed in the Notice will be deemed disapproved. After our approval of a Location, if there is a change to the information provided in the Notice, you must obtain our approval before operating the Mobile Unit at the Location.
- c. Certain locations and events will be designated in the Mobile Unit Amendment and deemed to be pre-approved Locations (however, we have the right to reasonably withdraw our approval for continued operation at these sites).
- d. You must obtain our prior approval of all operations at each Location that are ancillary to the operation of the Mobile Unit, including establishing temporary seating areas, arrangements for rest rooms and sanitation services, and signs directing the public to the Mobile Unit (the "**Surrounding Areas**").

You will be granted the right to operate the Mobile Unit within an area that will be designated in the Mobile Unit Amendment (the "**Mobile Unit Territory**"). As under the Franchise Agreement, the Mobile Unit Territory will not be an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution (including the Remote Kitchen Channel)

or competitive brands that we control. The Mobile Unit Territory will exclude any area(s) within a two mile radius from any existing or newly-established permanent "Nathan's Famous" restaurants that are located in the Mobile Unit Territory. If you operate the Mobile Unit outside of the Mobile Unit Territory, or at any Location we have not approved, we will have the right to terminate the Franchise Agreement immediately upon notice to you, without any opportunity to cure.

### **Our Reservation of Rights -- Area Development and Franchise Agreements**

We retain all rights not specifically granted to you. These include, for example, the right to: (1) use and license others to use the System and Proprietary Marks for the operation of "Nathan's Famous" Restaurants (including Branded Menu Program Operations) anywhere (if you signed a Development Agreement, then during the term of that agreement, we may do so only outside your Development Area); (2) sell, and license others to sell, products and services authorized for Restaurants and/or otherwise bearing the Proprietary Marks (including, among other methods, through supermarkets, club stores, convenience stores, catalogs, mail order, toll free numbers, television commercials and "home shopping" television networks, Internet websites, and other forms of electronic commerce); (3) acquire and operate businesses of any kind and to grant others the right to operate businesses of any kind, at any location (within or outside of the Development Area, excluding Restaurants operated under the System within the Development Area); (4) use and license others to use the System or Proprietary Marks or other marks to operate restaurants of any kind at any location (within or outside of the Development Area, other than for a "Nathan's Famous" Restaurant within the Development Area).

For many years, we (or our affiliates and designees) have distributed and sold "Nathan's Famous" Grocery Products, Direct-To-Consumer Products and Bulk Products to customers outside of our system of franchised Restaurants. We will continue these sales and may expand these sales to new customers, through new channels of distribution, in any location. The sale of these Products may appear to (or actually) compete with you.

We or our affiliates may also sell Branded Products (such as "Nathan's Famous" frankfurters and "Arthur Treacher's" fish) under our Branded Products Program to various food service operators who are outside of our system of franchised Restaurants. Some examples are "Bruster's," "Auntie Anne's," "Regal Theaters," and "Sam's Club" to name a few, each of which features "Nathan's Famous" hot dogs on their menus. We will continue these sales and may expand these sales to new customers who may be located anywhere. All of these food service operators participating in our Branded Products Program may appear to (or actually) compete with you.

As indicated in Item 1, certain "Arthur Treacher's" and "Miami Subs" co-branding rights are available to Nathan's Famous franchisees. Both of these concepts operate their own restaurant systems; accordingly, "Arthur Treacher's" or "Miami Subs" restaurants may be located in your area, and these restaurants may appear to (or actually) compete with you. In addition, we may grant qualified operators a license to operate remote kitchens which may be located in close proximity to your Restaurant.

## **Item 13**

### **TRADEMARKS**

#### **Nathan's Famous Systems, Inc.**

The Franchise Agreement allows you to use our Proprietary Marks with the Franchised Business. We have registered the following principal marks on the Principal Register of the United States Patent and Trademark Office ("USPTO"):

<b>Mark</b>	<b>Registration No.</b>	<b>Registration Date</b>
SINCE 1916 NATHAN'S FAMOUS & Design	1,108,972	Dec. 12, 1978
SINCE 1916 NATHAN'S FAMOUS & Design	1,044,485	July 20, 1976
SINCE 1916 NATHAN'S FAMOUS & Design	920,871	Sept. 21, 1971
NATHAN'S	1,926,089	Oct. 10, 1995
NATHAN'S & CONEY ISLAND (Design)	1,409,015	Sept. 9, 1986
NATHAN'S FAMOUS	1,926,088	Oct. 10, 1995

We have timely filed an affidavit of use and an affidavit of incontestability, and a renewal application, when due, for each of the above registrations.

There are no currently effective determinations of the USPTO, the Trademark Trial and Appeal Board, the Trademark Administrator of this state or any court. There is no pending infringement, opposition, or cancellation proceeding. There is no pending material litigation involving the trademarks which may be relevant to their use in this state or in any other state.

We do not know of any infringing uses that could materially affect your use of the Proprietary Marks in this state or elsewhere.

You must promptly notify us of any unauthorized use of the Proprietary Marks, any challenge to the validity of the Proprietary Marks, or any challenge to our ownership of, right to use and to license others to use, or your right to use, the Proprietary Marks. We have the right to direct and control any administrative proceeding or litigation involving the Proprietary Marks, including any settlement. We have the right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Marks. We will defend you against any third-party claim, suit, or demand arising out of your use of the Proprietary Marks. If we determine that you have used the Proprietary Marks according to the Franchise Agreement, we will bear the cost of defense, including the cost of any judgment or settlement. If we determine that you have not used the Proprietary Marks according to the Franchise Agreement, you must bear the cost of defense, including the cost of any judgment or settlement. If there is any litigation due to your use of the Proprietary Marks, you must execute all documents and do all things as may be necessary to carry out a defense or prosecution, including becoming a nominal party to any legal action. Unless litigation results from your use of the Proprietary Marks in a manner inconsistent with the terms of the Franchise Agreement, we will reimburse you for your out-of-pocket costs, except that you will bear the salary costs of your employees.

There are no agreements currently in effect which limit our rights to use or license the use of any Proprietary Mark. We reserve the right to substitute different proprietary marks for use in identifying the System and the businesses operating under it if we, in our sole discretion, determine that substitution of different marks as Proprietary Marks will be beneficial to the System. You must promptly implement any substitution of new Proprietary Marks.

NF Treachers Corp.

To the extent that you desire and are approved by us to include an Arthur Treacher’s Co-Branded Operation within your Nathan’s Famous Restaurant, the Arthur Treacher’s Participation Agreement allows you to use NF Treachers’ proprietary marks in connection with your restaurants. NF Treachers owns, and the former owners of “Arthur Treacher’s” trademarks obtained, the following registrations for its principal marks on the Principal Register of the USPTO:

<b>Mark</b>	<b>Registration No.</b>	<b>Registration Date</b>
ARTHUR TREACHER’S FISH & CHIPS	1056715	January 18, 1977
ARTHUR TREACHER’S FISH & CHIPS	1114186	February 27, 1979
ARTHUR TREACHER’S	1152573	April 28, 1981
ARTHUR TREACHER’S	1153509	May 5, 1981
ARTHUR TREACHER’S FISH & CHIPS	2314166	February 1, 2000

NF Treachers intends to file, when due (and the former trademark owners filed, when due) affidavits of use and affidavits of incontestability for each of the above registrations. The assignments to NF Treachers arising from the AT Trademark Acquisition have been recorded with the USPTO.

There are no currently effective determinations of the USPTO, the Trademark Trial and Appeal Board, the Trademark Administrator of this state or any court. There is no pending infringement, opposition, or cancellation proceeding. There is no pending material litigation involving the trademarks which may be relevant to their use in this state or in any other state.

Neither we nor NF Treachers know of any infringing uses that could materially affect your use of the Proprietary Marks in this state or elsewhere.

You must promptly notify us of any unauthorized use of the “Arthur Treacher’s” proprietary marks (the “AT Proprietary Marks”), any challenge to the validity of the AT Proprietary Marks, or any challenge to our ownership of, right to use and to license others to use, or your right to use, the AT Proprietary Marks. We have the right to direct and control any administrative proceeding or litigation involving the AT Proprietary Marks, including any settlement. We have the right, but not the obligation, to take action against

uses by others that may constitute infringement of the AT Proprietary Marks. We will defend you against any third-party claim, suit, or demand arising out of your use of the AT Proprietary Marks. If we determine that you used the AT Proprietary Marks according to the Participation Agreement, we will bear the cost of defense, including the cost of any judgment or settlement. If we determine that you did not use the AT Proprietary Marks according to the Participation Agreement, then you must bear the cost of defense, including the cost of any judgment or settlement. If there is any litigation due to your use of the AT Proprietary Marks, you must execute all documents and do all things as may be necessary to carry out a defense or prosecution, including becoming a nominal party to any legal action. Unless litigation results from your use of the AT Proprietary Marks in a manner inconsistent with the terms of the Participation Agreement, we will reimburse you for your out-of-pocket costs, except that you will bear the salary costs of your employees.

There are no agreements currently in effect which limit our rights to use or license the use of any AT Proprietary Marks.

We reserve the right to substitute different proprietary marks for use in identifying the Arthur Treacher’s Co-Branded Operation and the businesses operating under it if we, in our sole discretion, determine that substitution of different marks as AT Proprietary Marks will be beneficial to the System. You must promptly implement any substitution of new AT Proprietary Marks.

**Item 14**

**PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION**

**Patents and Copyrights**

There are no patents that are material to the franchise. We own the following federal copyright registrations:

<b>Title</b>	<b>Registration No.</b>	<b>Issue Date</b>
Graphic Art for Drinking Cups	VA 148-491	Feb. 22, 1983
Nathan’s Famous Hog Dog Cookbook	TXI 472-500	Dec. 17, 1984
Architectural Plans for Nathan's Building Design	VAu 132-611	May 2, 1988
Nathan’s Famous Since 1916 Amusement Park Design Logo	VAU 136-200	June 15, 1988
Personnel Manual	TXu 341-163	Sept. 28, 1988
Restaurant Operations Manual	TXu 341-192	Sept. 28, 1988
Food Specifications and Procedures Manual	TXu 341-254	Sept. 28, 1988
Nathan's Food Service Kiosk Drawings	VAu 223-524	Mar. 2, 1992
Nathan's Outdoor Food Service Kiosk	VAu 238-104	Sept. 9, 1992

<b>Title</b>	<b>Registration No.</b>	<b>Issue Date</b>
Nathan's Famous Food Service Double Cart (architectural drawings)	VAU 238-027	Sept. 9, 1992
Nathan's Famous Food Service Interior Double Cart Dressings (architectural drawings)	VAU 242-012	Dec. 9, 1992

We will provide you with copyrighted prototype architectural plans for construction of a Restaurant. You must employ a licensed architect or engineer who is acceptable to us to prepare plans and specifications for constructing a Restaurant based on our prototype plans and subject to our approval. You will be entitled to use the copyrighted architectural plans only to construct a single Restaurant at the Approved Location.

There are no currently effective determinations of the USPTO, Copyright Office, or any court regarding design patent or copyright. There are no currently effective agreements pursuant to which we derive our rights in the design patent or copyright which could limit your use of them. We are not obligated under the Franchise Agreement to protect any of the rights that you have to use any design patent or copyright, and we do not have any other obligation under the Franchise Agreement regarding the design patents and copyrights. We are not aware of any infringements that could materially affect your use of any design patent or copyright in any state.

### **Confidential Operating Manual**

We will lend you a copy of the Manual for the term of the Franchise Agreement (see table of contents at Exhibit M). You must treat the Manual, any other manuals created for or approved for use in the operation of the Franchised Business, and the information contained in them, as confidential, and must use reasonable efforts to maintain this information as secret and confidential. You must not reproduce these materials or otherwise make them available to any unauthorized person. The Manual will remain our sole property. You must keep it in a secure place on the Restaurant premises.

We may revise the contents of the Manual, and you must comply with each new or changed standard. You must ensure that the Manual is kept current at all times. If there is a dispute as to the contents of the Manual, the terms of the master copy which we maintain at our home office will control.

### **Confidential Information**

You must not, during or after the term of the Franchise Agreement, divulge or use for the benefit of anyone else any confidential information concerning the System and the methods of operation of the Franchised Business. You may divulge confidential information only to those employees who must have access to it in order to operate the Franchised Business. Any and all information, knowledge, and other data which we designate as confidential will be deemed confidential for purposes of the Franchise Agreement.

## Item 15

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

The Franchise Agreement does not require you to participate personally in the direct operation of the Restaurant, although we encourage and recommend active participation by you. We do, however, require that you or your Operating Partner devote full time, energy, and best efforts to the management of the Restaurant. If you are a corporation, partnership, or other entity, we require all of your owners to sign a personal guarantee (in the form attached to the Franchise Agreement as Exhibit B) of the performance of your obligations under the Franchise Agreement.

If you are a corporation or a partnership, an Operating Partner must supervise the operation of the Restaurant and must be approved by us. Our approval will be based on whether the proposed Operating Partner has a good business reputation in the restaurant industry and whether they can successfully complete our training program. An Operating Partner must be able to speak the English language and attend and complete our training course. All persons that subsequently serve in the position of Operating Partner must be approved by us and must attend and successfully complete our training program which is described in Item 11 of this disclosure document.

We require your principals (including the Operating Partner), supervisors and other managers to sign a non-disclosure and non-competition agreement, the form of which is attached to the Franchise Agreement as Exhibit F. We do not impose any other restrictions on your managers.

## Item 16

### **RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You may use the Restaurant premises only to operate the Franchised Business. You must keep the Restaurant open and in normal operation for the minimum hours and days we specify in the Manual or otherwise in writing. You must not use the premises for any other purpose or activity without first obtaining our written consent. You must operate the Restaurant in strict conformity with the specifications contained in the Manual or otherwise in writing. You must not deviate from our specifications, menus, or procedures without first obtaining our written consent (see Item 8 for additional details).

You must sell only those menu items, products, and services that we have expressly approved in writing and which meet our current standards as established in the Manual or otherwise in writing. You must not sell any other kind of service or product without first obtaining our written consent. You must discontinue selling or offering for sale any menu items, services or products which we, in our sole discretion, disapprove in writing at any time (see Item 8 for additional details). You must sell all items, products, or services which we direct.

You will have sole discretion as to the prices to be charged to customers, except that we may determine the maximum and minimum retail prices. If we have set a maximum price on a particular product or service, you may charge any price for that product or service up to and including the maximum price. If we have set a minimum price for a particular product or service, then (subject to applicable law) you may charge any price for that product or service that is equal to or above the minimum price we have set.

You must comply with all reasonable requirements if we supplement, improve, or modify the System, including offering and selling new or different services and products that we specify. We have the

right to change the types of authorized goods and services, and there are no limits on our right to make changes.

You may only offer and sell from the Approved Location to retail customers: (1) face-to-face, for consumption on the Restaurant premises; (2) face-to-face, for personal carry-out consumption; or (3) for Catering or Delivery (to customers' homes, offices, and other locations), except that we have the right to revoke our approval of Catering and Delivery at any time (see Item 12). The Approved Location for the Restaurant is specified in the Franchise Agreement. The Restaurant may not be relocated without our approval.

We currently distribute certain Grocery Products through groceries, supermarkets, and similar retail outlets. Similarly, we may now, or in the future, distribute or sell our Bulk Products and Branded Products to customers in our Branded Products Program. The Franchise Agreement does not grant you any rights with regard to those Grocery Products, Bulk Products, Branded Products or future-developed Grocery Products, Bulk Products and Branded Products which are now or may be distributed through groceries, supermarkets, and similar retail outlets, or Branded Products Program accounts (see Items 1 and 12 for additional details).

### Item 17

#### RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION

##### THE FRANCHISE RELATIONSHIP

These tables list certain important provisions of the Franchise Agreement, Area Development Agreement and Participation Agreements. You should read these provisions in the agreements attached to this Disclosure Document.

Franchise Agreement		
Provision	Section in Franchise Agreement	Summary*
a. Term of the franchise	§ 2	Ten years. Under a Kiosk Amendment and Mobile Unit Amendment, the initial term of the Franchise Agreement will be five years.
b. Renewal or extension of the term	§ 2	One additional term of 5 years. Under a Kiosk Amendment and Mobile Unit Amendment, the renewal period will be five years.

<b>Franchise Agreement</b>		
<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary*</b>
c. Requirements for you to renew or extend	§ 2	<p>Notice, improvements to Franchised Business, satisfaction of monetary obligations throughout term of the Franchise Agreement, compliance with Franchise Agreement, release, execute new Franchise Agreement, pay a renewal fee (see Item 6 for details), training, and others.</p> <p>If you seek to renew your franchise at the expiration of the initial term, you will be asked to sign a new franchise agreement that may contain terms and conditions materially different from those in your previous franchise agreement, such as different fee requirements.</p>
d. Termination by you	Not Applicable	Not Applicable
e. Termination by us without cause	Not Applicable	Not Applicable
f. Termination by us with cause	§ 17	Default under the Franchise Agreement or the Development Agreement, bankruptcy, abandonment, and other grounds; see § 17 of the Franchise Agreement. (Under the U.S. Bankruptcy Code, we may be unable to terminate the agreement merely because you make a bankruptcy filing.)
g. "Cause" defined- defaults which can be cured	§ 17	All other defaults not specified in §§ 17.1 and 17.2 of the Franchise Agreement
h. "Cause" defined- defaults which cannot be cured	§ 17	Bankruptcy, abandonment, conviction of felony, and others; see § 17.2 of the Franchise Agreement. (Under the U.S. Bankruptcy Code, we may be unable to terminate the agreement merely because you make a bankruptcy filing.)
i. Your obligations on termination/nonrenewal	§ 18	Stop operating the Restaurant, pay amounts due, pay lost future royalties, and others; see §§ 18.1 18.11 of the Franchise Agreement.
j. Assignment of contract by us	§ 16	There are no limits on our right to assign the Franchise Agreement.

<b>Franchise Agreement</b>		
<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary*</b>
k. "Transfer" by you – definition	§ 16	Includes transfer of any interest in the Franchised Business.
l. Our approval of transfer by you	§ 16	We have the right to approve transfers.
m. Conditions for our approval of transfer	§ 16	Your compliance with the existing franchise agreement, a release, the buyer's signature of a new Franchise Agreement, the payment of transfer fee, and others; see §§ 16.5.1 - 16.5.10 of the Franchise Agreement.
n. Our right of first refusal to acquire your business	§ 16	We can match any offer, or the cash equivalent.
o. Our option to purchase your business	§ 17	We can acquire your lease or sublease for the premises, and purchase your equipment, material, and inventory at cost or fair market value after termination or expiration.
p. Your death or disability	§ 16	Interest in Franchised Business must be transferred to a third-party we have approved within six months.
q. Non-competition covenants during the term of the franchise	§ 19	Includes prohibition on engaging in any business which features hot dogs and/or sausages as a principal menu item.
r. Non-competition covenants after the franchise is terminated or expires	§ 19	Includes a two-year prohibition similar to "q" above within a three-mile radius of any other Restaurant using the System.
s. Modification of the agreement	§ 25	Must be in writing executed by both parties.
t. Integration/merger clause	§ 25	Only the terms of the Franchise Agreement are binding, but this provision does not disclaim any representation made in this Franchise Disclosure Document.
u. Dispute resolution by arbitration or mediation	Not Applicable	Not Applicable

<b>Franchise Agreement</b>		
<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary*</b>
v. Choice of forum	§ 27	We may, and you must, sue only in the state and judicial district in which we have our principal place of business.*
w. Choice of law	§ 27	New York law will apply.*

<b>Participation Agreements (<i>applies to all co-branded concepts</i>)</b>		
<b>Provision</b>	<b>Section in Participation Agreement</b>	<b>Summary*</b>
a. Term of the franchise	§ 7	Until termination of the Franchise Agreement, or otherwise.
b. Renewal or extension of the term	Not Applicable	Not Applicable
c. Requirements for you to renew or extend	Not Applicable	Not Applicable
d. Termination by you	Not Applicable	Not Applicable
e. Termination by us without cause	Not Applicable	If our agreement with the franchisor of the co-branded concept expires or is terminated, then the Participation Agreements will also terminate.
f. Termination by us with cause	§ 8	Default under Franchise Agreement and others.
g. "Cause" defined- defaults which can be cured	§ 8	Failure to comply with Participation Agreement, and other grounds.
h. "Cause" defined- defaults which cannot be cured	§ 8	Default and others.
i. Your obligations on termination/nonrenewal	§ 8	Cease operating the Franchised Business, cease using marks, and others.
j. Assignment of contract by us	Not Applicable	Not Applicable

<b>Participation Agreements (applies to all co-branded concepts)</b>		
<b>Provision</b>	<b>Section in Participation Agreement</b>	<b>Summary*</b>
k. "Transfer" by you – definition	§ 9	Includes transfer of any interest in the co-branded operation.
l. Our approval of transfer by you	§ 9	We have the right to approve transfers.
m. Conditions for our approval of transfer	Not Applicable	Not Applicable
n. Our right of first refusal to acquire your business	Not Applicable	Not Applicable
o. Our option to purchase your business	Not Applicable	Not Applicable
p. Your death or disability	Not Applicable	Not Applicable
q. Non-competition covenants during the term of the Participation	Not Applicable	Not Applicable
r. Non-competition covenants after the Participation is terminated or expires	Not Applicable	Not Applicable
s. Modification of the agreement	§ 10	Must be in writing executed by both parties.
t. Integration/merger clause	§ 10	Only the terms of the Participation Agreement are binding, but this provision does not disclaim any representation made in this Franchise Disclosure Document.
u. Dispute resolution by arbitration or mediation	Not Applicable	Not Applicable
v. Choice of forum	§ 10	Same forum as under Franchise Agreement.*
w. Choice of law	§ 10	New York law will apply.*

<b>Deposit Agreement</b>		
<b>Provision</b>	<b>Section in Deposit Agreement</b>	<b>Summary*</b>
a. Term of the franchise	§ 10	The Deposit Period will last for 90 days unless otherwise agreed upon in writing.
b. Renewal or extension of the term	Not Applicable	Not Applicable
c. Requirements for you to renew or extend	Not Applicable	Not Applicable
d. Termination by you	§ 11	We each have the right to terminate the Deposit Agreement at any time, with or without cause, by providing written notice to the other party.
e. Termination by us without cause	§ 11	We each have the right to terminate the Deposit Agreement at any time, with or without cause, by providing written notice to the other party.
f. Termination by us with cause	§ 11	We each have the right to terminate the Deposit Agreement at any time, with or without cause, by providing written notice to the other party.
g. "Cause" defined- defaults which can be cured	Not Applicable	Not Applicable
h. "Cause" defined- defaults which cannot be cured	Not Applicable	Not Applicable
i. Your obligations on termination/nonrenewal	Not Applicable	Not Applicable
j. Assignment of contract by us	Not Applicable	Not Applicable
k. "Transfer" by you – definition	Not Applicable	Not Applicable
l. Our approval of transfer by you	Not Applicable	Not Applicable

<b>Deposit Agreement</b>		
<b>Provision</b>	<b>Section in Deposit Agreement</b>	<b>Summary*</b>
m. Conditions for our approval of transfer	Not Applicable	Not Applicable
n. Our right of first refusal to acquire your business	Not Applicable	Not Applicable
o. Our option to purchase your business	Not Applicable	Not Applicable
p. Your death or disability	Not Applicable	Not Applicable
q. Non-competition covenants during the term of the franchise	Not Applicable	Not Applicable
r. Non-competition covenants after the franchise is terminated or expires	Not Applicable	Not Applicable
s. Modification of the agreement	Not Applicable	Not Applicable
t. Integration/merger clause	§ 15	Only the terms of the Deposit Agreement are binding, but this provision does not disclaim any representation made in this Franchise Disclosure Document.
u. Dispute resolution by arbitration or mediation	Not Applicable	Not Applicable
v. Choice of forum	Not Applicable	Not Applicable
w. Choice of law	§ 10	New York law will apply.*

<b>Area Development Agreement</b>		
<b>Provision</b>	<b>Section in Area Development Agreement</b>	<b>Summary*</b>
a. Term of the franchise term	§ 4 and Exhibit A	Terminates on the date when all the Restaurants required by Development Schedule are open and in operation.
b. Renewal or extension of the term	Not Applicable	Not Applicable
c. Requirements for you to renew or extend	Not Applicable	Not Applicable
d. Termination by you	Not Applicable	Not Applicable
e. Termination by us without cause	Not Applicable	Not Applicable
f. Termination by us with cause	§ 6	Default under Area Development Agreement and others.
g. "Cause" defined- defaults which can be cured	§ 6	All other defaults not specified in § 6 of the Area Development Agreement.
h. "Cause" defined- defaults which cannot be cured	§ 6	Default under Development Schedule, bankruptcy, and others.
i. Your obligations on termination/nonrenewal	§ 6	Cease establishing and operating any "Nathan's Famous" Restaurant for which a Franchise Agreement has not been executed at the time of termination.
j. Assignment of contract by us	§ 7	There are no limits on our right to assign the Area Development Agreement.
k. "Transfer" by you – definition	§ 7	Includes transfer of any interest in the Area Development Agreement.
l. Our approval of transfer by you	§ 7	We have the right to approve transfers.

<b>Area Development Agreement</b>		
<b>Provision</b>	<b>Section in Area Development Agreement</b>	<b>Summary*</b>
m. Conditions for our approval of transfer	§ 7	Includes payment of money owed, non-default, execution of release by transferor, transferee must assume Area Developer's obligations payment of transfer fee, and others.
n. Our right of first refusal to acquire your business	§ 7	We can match any offer, or the cash equivalent.
o. Our option to purchase your business	Not Applicable	Not Applicable
p. Your death or disability	§ 7	Interest in the Area Development Agreement must be transferred to a third-party we have approved within six months.
q. Non-competition covenants during the term of the franchise	§ 8	Includes prohibition on engaging in any other business which is the same as or similar to the Area Development business(es) which is located within the Development Area.
r. Non-competition covenants after the franchise is terminated or expires	§ 8	Includes two-year prohibition similar to "q" above within a three-mile radius of any Restaurant using the System.
s. Modification of the agreement	§ 13	Must be in writing executed by both parties.
t. Integration/merger clause	§ 13	Only the terms of the Area Development Agreement are binding, but this provision does not disclaim any representation made in this Franchise Disclosure Document.
u. Dispute resolution by arbitration or mediation	Not Applicable	Not Applicable

<b>Area Development Agreement</b>		
<b>Provision</b>	<b>Section in Area Development Agreement</b>	<b>Summary*</b>
v. Choice of forum	§ 15	We may, and you must, sue only in the state and judicial district where we have our principal place of business.*
w. Choice of law	§ 15	New York law will apply.*

\* Please refer to the disclosure addenda and contractual amendments attached to this disclosure document at Exhibits P & Q for additional terms that may be required under applicable state law. Please note, though, that if you would not otherwise be covered under those state laws by their own terms, then you will not be covered merely because we have given you an addendum (or signed an amendment) that describes the provisions of those state laws.

\* In addition to the provisions noted in the charts above, the Franchise Agreement and Area Development Agreement contain a number of provisions that may affect your legal rights, including a waiver of a jury trial, waiver of punitive or exemplary damages, and limitations on when claims may be raised. (See Franchise Agreement Section 27 and Area Development Agreement Section 15.) We recommend that you carefully review all of these provisions, this disclosure document, and the entire contracts, with a qualified franchise lawyer.

### **Item 18**

#### **PUBLIC FIGURES**

We do not use any public figures to promote our Nathan’s Famous franchise.

### **Item 19**

#### **FINANCIAL PERFORMANCE REPRESENTATIONS**

The FTC’s Franchise Rule permits a franchisor to disclose 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 the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about performance at a particular location or under particular circumstance.

We do not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, 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 our management by contacting Mr. Eric Gatoff at One Jericho Plaza - Wing A, 2nd Floor, Jericho, New York 11753 (516/338-8500), the Federal Trade Commission, and the appropriate state regulatory agencies.

Item 20

OUTLETS AND FRANCHISEE INFORMATION

**PART I – NATHAN’S FRANCHISED RESTAURANT OUTLET INFORMATION**

**Table 1**  
**Systemwide Nathan's Franchised Restaurant Outlet Summary**  
**For years 2021 to 2023**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of Year</b>	<b>Outlets at the End of Year</b>	<b>Net Change</b>
Franchised	2021	83	85	+2
	2022	85	79	-6
	2023	79	72	-7
Company Owned	2021	3	3	0
	2022	3	4	+1
	2023	4	4	0
<b>Total Outlets</b>	<b>2021</b>	<b>86</b>	<b>88</b>	<b>+2</b>
	<b>2022</b>	<b>88</b>	<b>83</b>	<b>-5</b>
	<b>2023</b>	<b>83</b>	<b>76</b>	<b>-7</b>

**Table 2**  
**Transfers of Nathan's Franchised Restaurant Outlets from Franchisees to New Owners (other than Franchisor)**  
**For years 2021 to 2023**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
New Jersey	2021	0
	2022	5
	2023	0
Texas	2021	0
	2022	0
	2023	1
<b>Totals</b>	<b>2021</b>	<b>0</b>
	<b>2022</b>	<b>5</b>
	<b>2023</b>	<b>1</b>

**Table 3**  
**Status of Nathan's Franchised Restaurant Outlets**  
**For years 2021 to 2023**

<b>Col. 1</b>	<b>Col. 2</b>	<b>Col. 3</b>	<b>Col. 4</b>	<b>Col. 5</b>	<b>Col. 6</b>	<b>Col. 7</b>	<b>Col. 8</b>	<b>Col. 9</b>
<b>State</b>	<b>Year</b>	<b>Outlets at Start of Year</b>	<b>Outlets Opened</b>	<b>Terminations</b>	<b>Non-Renewals</b>	<b>Reacquired By Franchisor</b>	<b>Ceased Operations - Other Reasons</b>	<b>Outlets at End of the Year</b>
Connecticut	2021	1	1	0	0	0	1	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Florida	2021	16	1	4	0	0	0	13
	2022	13	0	0	0	0	0	13
	2023	13	0	1	0	0	0	12
Georgia	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Kentucky	2021	0	1	0	0	0	0	1
	2022	0	0	0	0	0	0	1
	2023	1	0	1	0	0	0	0
Maryland	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	1	0	0	0	1
Massachusetts	2021	5	0	0	0	0	0	5
	2022	5	0	1	0	0	0	4
	2023	4	0	0	0	0	0	4
Nevada	2021	9	0	0	0	0	0	9
	2022	9	0	2	0	0	0	7
	2023	7	0	0	0	0	0	7
New Jersey	2021	16	2	0	0	0	0	18
	2022	18	0	1	0	0	0	17
	2023	17	1	1	0	0	0	17
New York	2021	21	3	0	0	0	0	24
	2022	24	0	5	0	0	0	19
	2023	19	0	4	0	0	0	15
North Carolina	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Ohio	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Pennsylvania	2021	1	0	0	0	0	0	0
	2022	0	3	0	0	0	0	3
	2023	3	0	0	0	0	0	3
	2021	2	1	0	0	0	0	3
	2022	3	0	0	0	0	0	3

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired By Franchisor	Ceased Operations - Other Reasons	Outlets at End of the Year
South Carolina	2023	3	0	0	0	0	0	3
Rhode Island	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Texas	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Virginia	2021	3	0	0	0	0	1	2
	2022	2	0	1	0	0	0	1
	2023	1	0	0	0	0	0	1
<b>TOTALS</b>	<b>2021</b>	<b>83</b>	<b>9</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>85</b>
	<b>2022</b>	<b>85</b>	<b>4</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>79</b>
	<b>2023</b>	<b>79</b>	<b>1</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>72</b>

Notes:

1. This chart does not include franchised “Miami Subs” restaurants that conduct Nathan’s Famous Co-Branded Operations under participation agreements (of which there were 24 in Florida and 1 in South Carolina as of March 26, 2023), or locations where licensees conduct Nathan’s Branded Menu Program Operations under Nathan’s Branded Menu Program License Agreements. See Exhibit H-2 for the list of franchised "Miami Subs" restaurants that conduct Nathan's Famous Co-Branded Operations.
2. All numbers for 2023, 2022 and 2021 are as of our fiscal year end, which ends each year on the last Sunday in March.
3. The numbers in the "Total" column may exceed the number of franchises/licenses affected because several events may have affected the same franchise/license and because of the relocation of one or more franchises from one state to another.
4. As explained in this disclosure document, we offer qualified operators a license to operate remote kitchens under the Remote Kitchen Channel. These remote kitchens may be located in close proximity to your Restaurant. Because we do not consider remote kitchens operating under the Remote Kitchen Channel to be substantially similar to Franchised Businesses, and because the number of remote kitchens operating under the Remote Kitchen Channel fluctuates much more frequently than Franchised Businesses, we do not include remote kitchen locations in the Item 20 tables. Instead, the Item 20 tables report only on the status of Franchised Businesses, which are referred to as “outlets.” For this reason, the number of locations providing “Nathan’s Famous” menu items may exceed the numbers reported in these Item 20 tables.

**Table 4**  
**Status of Company-Owned Nathan's Restaurant Outlets**  
**For years 2021 to 2023**

<b>Col. 1</b>	<b>Col. 2</b>	<b>Col. 3</b>	<b>Col. 4</b>	<b>Col. 5</b>	<b>Col. 6</b>	<b>Col. 7</b>	<b>Col. 8</b>
<b>State</b>	<b>Year</b>	<b>Outlets at Start of Year</b>	<b>Outlets Opened</b>	<b>Outlets Reacquired From Franchisee</b>	<b>Outlets Closed</b>	<b>Outlets Sold to Franchisee</b>	<b>Outlets at End of the Year</b>
New York	2021	3	0	0	0	0	3
	2022	3	1	0	0	0	4
	2023	4	0	0	0	0	4
<b>Totals</b>	<b>2021</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>
	<b>2022</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>
	<b>2023</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>

Notes:

1. This count, as well as the Company-Owned count in Table 1 above, does not include a seasonal unit in Coney Island, New York, that operates only during the summer months, and is closed during the rest of the year.
2. All numbers for FYs 2023, 2022 and 2021 are as of our fiscal year end, which ends each year on the last Sunday in March.

**Table 5**  
**Projected Nathan's Restaurant Openings as of March 26, 2023**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>State</b>	<b>Franchise Agreements Signed but Outlets Not Opened</b>	<b>Projected New Franchised Outlets In The New Fiscal Year</b>	<b>Projected New Company-Owned Outlets In The New Fiscal Year</b>
Arizona	1	1	0
Kentucky	1	1	0
<b>Totals</b>	<b>2</b>	<b>2</b>	<b>0</b>

**PART II – NATHAN’S BMP OPERATIONS**

**Table 1**  
**Systemwide Nathan’s BMP Outlet Summary**  
**For years 2021 to 2023**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of Year</b>	<b>Outlets at the End of Year</b>	<b>Net Change</b>
Franchised	2021	96	95	-1

	2022	95	87	-8
	2023	87	86	-1
Company Owned	2021	0	0	0
	2022	0	0	0
	2023	0	0	0
<b>Total Outlets</b>	<b>2021</b>	<b>96</b>	<b>95</b>	<b>-1</b>
	<b>2022</b>	<b>95</b>	<b>87</b>	<b>-8</b>
	<b>2023</b>	<b>87</b>	<b>86</b>	<b>-1</b>

**Table 2**  
**Transfers of Nathan's BMP Outlets from Licensees to New Owners (other than Franchisor)**  
**For years 2021 to 2023**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
New York	2021	1
	2022	26
	2023	0
North Carolina	2021	0
	2022	0
	2023	1
Pennsylvania	2021	1
	2022	0
	2023	0
<b>Totals</b>	<b>2021</b>	<b>2</b>
	<b>2022</b>	<b>26</b>
	<b>2023</b>	<b>1</b>

**Table 3**  
**Status of Nathan's BMP Outlets**  
**For years 2021 to 2023**

<b>Col. 1</b>	<b>Col. 2</b>	<b>Col. 3</b>	<b>Col. 4</b>	<b>Col. 5</b>	<b>Col. 6</b>	<b>Col. 7</b>	<b>Col. 8</b>	<b>Col. 9</b>
<b>State</b>	<b>Year</b>	<b>Outlets at Start of Year</b>	<b>Outlets Opened</b>	<b>Terminations</b>	<b>Non-Renewals</b>	<b>Reacquired By Franchisor</b>	<b>Ceased Operations - Other Reasons</b>	<b>Outlets at End of the Year</b>
California	2021	1	0	0	0	0	0	1
	2022	1	0	1	0	0	0	0
	2023	0	0	0	0	0	0	0
Connecticut	2021	3	0	0	0	0	0	3
	2022	3	0	2	0	0	0	1
	2023	1	0	0	0	0	0	1

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired By Franchisor	Ceased Operations - Other Reasons	Outlets at End of the Year
Florida	2021	9	0	0	0	0	0	9
	2022	9	0	0	0	0	0	9
	2023	9	0	0	0	0	0	9
Georgia	2021	5	0	0	0	0	0	5
	2022	5	0	0	0	0	0	5
	2023	5	0	1	0	0	0	4
Illinois	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	1	0	0	0	0
Indiana	2021	1	0	0	0	0	0	1
	2022	1	0	1	0	0	0	0
	2023	0	0	0	0	0	0	0
Kentucky	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Massachusetts	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	1	0	0	0	0
Missouri	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
New Jersey	2021	5	0	0	0	0	0	5
	2022	5	0	1	0	0	0	4
	2023	4	1	0	0	0	0	5
New York	2021	55	1	0	0	0	0	56
	2022	56	0	2	0	0	0	54
	2023	54	2	1	0	0	0	55
North Carolina	2021	1	0	0	0	0	0	1
	2022	1	1	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Pennsylvania	2021	6	0	0	0	0	0	6
	2022	6	0	1	0	0	0	5
	2023	5	0	0	0	0	0	5
South Carolina	2021	2	0	2	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
Texas	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Virginia	2021	2	0	0	0	0	0	2
	2022	2	0	1	0	0	0	1
	2023	1	0	0	0	0	0	1

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired By Franchisor	Ceased Operations - Other Reasons	Outlets at End of the Year
<b>TOTALS</b>	<b>2021</b>	<b>96</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>95</b>
	<b>2022</b>	<b>95</b>	<b>1</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>87</b>
	<b>2023</b>	<b>87</b>	<b>3</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>86</b>

Notes:

1. All numbers for 2023, 2022, and 2021 are as of our fiscal year end, which ends each year on the last Sunday in March.
2. The numbers in the "Total" column may exceed the number of licenses affected because several events may have affected the same license and because of the relocation of one or more licenses from one state to another. The numbers are also affected by the fact that some licensed locations converted to Branded Products Program locations. Licensees that converted to the Branded Products Program are listed as "Ceased Operations – Other Reasons."

**Table 4**  
**Status of Company-Owned BMP Outlets**  
**For years 2021 to 2023**

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8
State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
All States	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0
<b>Totals</b>	<b>2021</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>2022</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>2023</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Notes:

1. As we described in Item 1, we do not own any Branded Menu Program Operations.

**Table 5**  
**Projected Nathan's BMP Outlet Openings as of March 26, 2023**

Column 1	Column 2	Column 3	Column 4
State			Projected New Company-Owned

	<b>Franchise Agreements Signed but Outlets Not Opened</b>	<b>Projected New Franchised Outlets In The New Fiscal Year</b>	<b>Outlets In The New Fiscal Year</b>
All States	0	0	0
<b>Totals</b>	<b>0</b>	<b>0</b>	<b>0</b>

The names, addresses, and telephone numbers of our franchisees and licensees as of March 26, 2023 are listed in Exhibit H-1 to this disclosure document. The names, addresses and telephone numbers of our licensees who are Miami Subs franchisees operating co-branded locations pursuant to Participation Agreements as of March 26, 2023 are listed in Exhibit H-2 to this disclosure document.

The name and last known home address and telephone number of every franchisee, licensee, or area developer who has had an agreement terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under a Franchise, License, or Area Development Agreement during our last fiscal year (March 26, 2023), or who has not communicated with us within ten weeks of the date of this disclosure document, are listed in Exhibit J-1. The name and last known address and telephone number of every Miami Subs franchisee who has had a Participation Agreement terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under a Participation Agreement during our last fiscal year (March 26, 2023), or who has not communicated with us within ten weeks of the date of this disclosure document, are listed in Exhibit J-2. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

We estimate that we will not enter into any Area Development Agreements in the year following the date of this disclosure document.

The information provided above relates only to franchisees, licensees, and area developers in the United States, and does not include information about our international operations.

No franchisees have signed a confidentiality clause in a franchise agreement, settlement or other contract within the last three years that would restrict their ability to speak openly about their experience with us. As of the date of this franchise disclosure document, there are no Nathan's franchisee associations in existence regardless of whether they use our trademark or not.

Branded Products Program. Through our Branded Products Program, we also sell products to various retailers/foodservice operators. There were more than 14,000 locations operating in the United States (including Puerto Rico, Guam, and the U.S. Virgin Islands) under our Branded Products Program as of March 26, 2023. A list of U.S. jurisdictions in which these retailers are located is attached to this disclosure document as Exhibit H-3.

**PART III –ARTHUR TREACHER’S FRANCHISED/LICENSED RESTAURANTS**

**Table 1  
Arthur Treacher’s Restaurant Outlet Summary  
For years 2021 to 2023**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of Year</b>	<b>Outlets at the End of Year</b>	<b>Net Change</b>
Franchised	2021	59	59	0
	2022	59	47	-12
	2023	47	46	--1
Company Owned	2021	2	2	0
	2022	2	0	-2
	2023	0	0	0
<b>Total Outlets</b>	<b>2021</b>	<b>61</b>	<b>61</b>	<b>0</b>
	<b>2022</b>	<b>61</b>	<b>47</b>	<b>-14</b>
	<b>2023</b>	<b>47</b>	<b>46</b>	<b>-1</b>

**Table 2  
Transfers of Arthur Treacher’s Restaurant Outlets from Franchisees to New Owners (other than Franchisor)  
For years 2021 to 2023**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
All States	2021	0
	2022	0
	2023	0
<b>Totals</b>	<b>2021</b>	<b>0</b>
	<b>2022</b>	<b>0</b>
	<b>2023</b>	<b>0</b>

**Table 3  
Status of Franchised Arthur Treacher’s Restaurant Outlets  
For years 2021 to 2023**

<b>Col. 1</b>	<b>Col. 2</b>	<b>Col. 3</b>	<b>Col. 4</b>	<b>Col. 5</b>	<b>Col. 6</b>	<b>Col. 7</b>	<b>Col. 8</b>	<b>Col. 9</b>
<b>State</b>	<b>Year</b>	<b>Outlets at Start of Year</b>	<b>Outlets Opened</b>	<b>Terminations</b>	<b>Non-Renewals</b>	<b>Reacquired By Franchisor</b>	<b>Ceased Operations - Other Reasons</b>	<b>Outlets at End of the Year</b>
	2021	1	0	0	0	0	0	1

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired By Franchisor	Ceased Operations - Other Reasons	Outlets at End of the Year
Connecticut	2022	1	0	1	0	0	0	0
	2023	0	0	0	0	0	0	0
Florida	2021	23	0	0	0	0	0	23
	2022	23	0	1	0	0	0	22
	2023	22	0	0	0	0	0	22
Nevada	2021	1	0	0	0	0	0	1
	2022	1	0	1	0	0	0	0
	2023	0	0	0	0	0	0	0
New Jersey	2021	13	0	0	0	0	0	13
	2022	13	0	2	0	0	0	11
	2023	11	0	0	0	0	0	11
New York	2021	18	0	0	0	0	1	17
	2022	17	0	7	0	0	0	10
	2023	10	0	1	0	0	0	9
North Carolina	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
South Carolina	2021	2	1	0	0	0	0	3
	2022	3	0	0	0	0	0	3
	2023	3	0	0	0	0	0	3
<b>TOTALS</b>	<b>2021</b>	<b>59</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>59</b>
	<b>2022</b>	<b>59</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>47</b>
	<b>2023</b>	<b>47</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>46</b>

Notes:

1. In addition to Restaurants that conduct Arthur Treacher's Co-Branded Operations under participation agreements, this chart includes "Miami Subs" restaurants that conduct Arthur Treacher's Co-Branded Operations under participation agreements and Restaurants that operate under Arthur Treacher's Branded Menu Program License Agreements.

**Table 4**  
**Status of Company-Owned Arthur Treacher's Restaurant Outlets**  
**For years 2021 to 2023**

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8
State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
	2021	2	0	0	0	0	2

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8
State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
New York	2022	2	0	0	2	0	0
	2023	0	0	0	0	0	0
<b>Totals</b>	<b>2021</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>
	<b>2022</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>
	<b>2023</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Notes:

1. The numbers in the “Total” column may exceed the number of franchises affected because several events may have affected the same franchise and because of the relocation of one or more franchises from one state to another.
2. All numbers for FY 2023, 2022, and 2021 are as of our fiscal year end, which ends each year on the last Sunday in March.

Projected Openings: Except for continued inclusion of Arthur Treacher’s Co-Branded Operations in new and existing Nathan’s Famous Restaurants and Miami Subs Restaurants, NF Treachers does not plan to establish any franchised or company-owned units within the United States during the next year. We expect that the development of Arthur Treacher’s Co-Branded Operations in the United States during the 1-year period following this disclosure document to coincide, to some extent, with the development of new Nathan’s Famous franchises (as described above in this Item 20).

The names, addresses, and telephone numbers of “NF Treachers” franchisees and licensees (including those operating under participation agreements) as of March 26, 2023, are listed in Exhibit H-1 (if part of a Nathan’s Famous operation) or Exhibit H-2 (if part of a Miami Subs operation) to this disclosure document.

The name and last known home address and telephone number of every Arthur Treacher’s franchisee who has had an agreement terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under a franchise agreement during our fiscal year ended March 26, 2023, or who has not communicated with us within ten weeks of the date of this disclosure document, are listed in Exhibit J-1 (if part of a Nathan’s Famous operation) or Exhibit J-2 (if part of a Miami Subs operation).

The information provided above relates only to franchisees in the United States operating co-branded units in connection with a Nathan’s Famous or Miami Subs restaurant operation, or an Arthur Treacher’s Branded Menu Program Operation. It does not include information about NF Treachers’ international operations, nor does it include any information concerning PFSI’s Existing AT Franchise System or any company-owned, franchised or licensed Arthur Treacher’s restaurants opened by PFSI/TruFoods after February 28, 2006.

Information about the "Miami Subs" franchise system can be found in a separately available disclosure document from the franchisor of the Miami Subs concept.

## **Item 21**

### **FINANCIAL STATEMENTS**

Our audited financial statements for fiscal years 2023, 2022, and 2021 are attached as Exhibit N.

Our fiscal year end falls on the last Sunday in March each year.

## **Item 22**

### **CONTRACTS**

The following contracts are attached to the disclosure document in the following order:

1. Franchise Agreement (appended as Exhibit A to this disclosure document).
2. Kiosk and Mobile Unit Amendments to the Franchise Agreement (Exhibit B).
  - a. Kiosk Amendment (Exhibit B-1).
  - b. Mobile Unit Amendment (Exhibit B-2).
3. Mobile Unit Amendment to the Franchise Agreement (Exhibit B-2).
4. Area Development Agreement (Exhibit C).
5. Participation Agreements for Miami Subs Franchisees (Exhibit E).
  - a. Participation Agreement for Existing Restaurant (Exhibit E-1).
  - b. Participation Agreement for New Restaurant (Exhibit E-2).
6. “Arthur Treacher’s” Participation Agreements (Exhibit F).
  - a. Existing Franchisees (Exhibit F-1)
  - b. New Franchisees (Exhibit F-2)
7. Deposit Agreement (Exhibit G)
8. Franchisee Compliance Certification (Exhibit O)

## **Item 23**

### **RECEIPTS**

The last two pages of this disclosure document (following the exhibits and attachments) are a document acknowledging receipt of this disclosure document by you. One copy of the document is for you and one (the last page) is to be signed and dated, and provided to us.

**Exhibit A**

**Franchise Agreement**



**Nathan's Famous  
Systems, Inc.**

**Franchise Agreement**

# Nathan's Famous Systems, Inc. Franchise Agreement

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### Exhibits

- |  |   |
|--|---|
| A Data Addendum  | E ADA Certification   |
| B Guarantee, Indemnification, and Acknowledgement                        | F Sample Form of Non-Disclosure and Non-Competition Agreement |
| C List of Principals   |   |
| D ACH - Authorization Agreement for Prearranged Payments (Direct Debits) |   |

# Nathan's Famous Systems, Inc. Franchise Agreement

THIS FRANCHISE AGREEMENT (the "**Agreement**") is made and entered into as of the date that we have indicated on the signature page of this Agreement (the "**Effective Date**") by and between:

- Nathan's Famous Systems, Inc., a Delaware corporation, with its principal place of business at One Jericho Plaza - Wing A, 2nd Fl., Jericho, New York 11753 ("**we**," "**us**," or "**our**"); and
- \_\_\_\_\_ a [resident of] [corporation organized in] [limited liability company organized in] \_\_\_\_\_ and having offices at \_\_\_\_\_ ("**you**" or the "**Franchisee**").

## Introduction

*We own a format and system relating to the establishment and operation of "Nathan's Famous" restaurants, which are businesses operating under our Proprietary Marks in buildings that bear our interior and/or exterior trade dress (each one of which is referred to as a "**Restaurant**"). A Restaurant specializes in the sale of Proprietary Items (which include hot dogs manufactured with a proprietary spice formula) as well as non Proprietary Items (such as hamburgers, crinkle cut french fries, assorted sandwiches, platters, and other food products) to customers on-site (collectively, the "**Products**").*

*Among the distinguishing characteristics of a Restaurant are that it operates under our "Nathan's Famous" "System." Our System includes (among other things): confidential and proprietary information and trade secrets; distinctive images, designs, business formats, methods, procedures, and specifications; distinctive exterior and interior design, decor, color scheme, and furnishings; uniform standards, specifications, and procedures for operations; quality and uniformity of Products and services offered; procedures for management and inventory control; training and assistance; and advertising and promotional programs (together, the "**System**").*

*We identify the System by means of our Proprietary Marks. Our proprietary marks include certain trade names (for example, the marks "NATHAN'S FAMOUS" and logo, and "SINCE 1916 NATHAN'S FAMOUS" and logo), service marks, trademarks, logos, emblems, and indicia of origin, as well as other trade names, service marks, and trademarks that we may periodically specify in writing for use in connection with the System (all of these are referred to as our "**Proprietary Marks**"). We continue to develop, use, and control the use of our Proprietary Marks in order to identify for the public the source of services and products marketed under those marks and under the System, and to represent the System's high standards of quality, appearance, and service.*

*You have asked to enter into the business of operating a Restaurant under our System and wish to obtain a franchise from us for that purpose, as well as to receive the training and other assistance we provide as described in this Agreement. You also understand and acknowledge the importance of our high standards of quality, cleanliness, appearance, and service and the necessity of operating the business franchised hereunder in conformity with our standards and specifications.*

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

## 1 GRANT

- 1.1 *Rights and Obligations.* We grant you the right, and you accept the obligation, all under the terms (and subject to the conditions) of this Agreement:
- 1.1.1 To operate one Restaurant under the System (the “**Franchised Business**”);
  - 1.1.2 To use the Proprietary Marks and the System, but only in connection with the Franchised Business (recognizing that we may periodically change or improve the Proprietary Marks and the System); and
  - 1.1.3 To do all of these things only at the Approved Location (as defined in Section 1.2 below).
- 1.2 *Approved Location.* The street address of the location for the Franchised Business approved under this Agreement is specified in Exhibit A to this Agreement, and is referred to as the “**Approved Location.**” We have the right to grant or withhold our approval of the Approved Location.
- 1.3 *No Protected Territory.* You expressly acknowledge and agree that this franchise is non-exclusive, and that this Agreement does not grant or imply any protected area or territory for the Restaurant. Accordingly, we retain the right to conduct any business at any location, notwithstanding the proximity of that business activity to the Approved Location. We retain all rights, including: **(a)** the right to use, and to license others to use, the System and the Proprietary Marks for the operation of Restaurants and other “Nathan’s” businesses at any location; **(b)** the right to sell, and to license others to sell, products and services that are also authorized for sale at Restaurants through other channels of distribution (including, through Catering and/or Delivery (as defined in Section 1.3.2.3 below), catalogs, mail order, toll free numbers for delivery, sales via Internet websites, and other forms of electronic commerce); **(c)** the right to acquire and operate businesses of any kind and to grant or franchise the right to others to operate other businesses of any kind, no matter where located; and **(d)** the right to use and license the use of the Proprietary Marks and other marks in connection with the operation of restaurants at any location, which restaurants and marks may be the same as, similar to, or different from the Restaurant and the Proprietary Marks, on such terms and conditions as we deem advisable, and without granting you any rights therein. In addition:
- 1.3.1 You understand that we, our affiliates and designees may distribute or sell any of our products: **(a)** through packages or over-the-counter under the Proprietary Marks at grocery stores, supermarkets, club stores and similar retail outlets (the “**Grocery Products**”); **(b)** through packages under the Proprietary Marks for direct-to-consumer sale (e.g., via catalogs, mail order, toll free numbers, the Internet, “home shopping” television channels, etc.) (“**Direct-to-Consumer Products**”); **(c)** in wholesale bulk packages (“**Bulk Products**”) for on-site preparation, sale and consumption in conjunction with the Proprietary Marks at stadiums, sports arenas, theme parks, institutional feeding facilities, military bases, airports, delicatessens, convenience stores and restaurants and other locations which are not “Nathan’s Famous” franchised restaurants (“**Branded Products**”); and/or **(d)** through Catering and/or Delivery. (The program through which we sell non-franchisees Branded Products for on-site preparation, sale and consumption is sometimes referred to in this Agreement as the “**Branded Products Program**”.) You understand that this Agreement does not grant you any rights with regard to such Grocery Products, Bulk Products, Direct-to-Consumer Products and/or the Branded Product Program,

whether the same are now in existence or are later developed. Further, you agree that neither we nor our affiliates shall have any liability to you in connection with the distribution and sale of Products under, and the continued development of, the Grocery Products, Bulk Products, Direct-to-Consumer Products and/or the Branded Products Programs.

- 1.3.2 You agree that you will offer and sell Products from the Approved Location only to retail customers:
  - 1.3.2.1 Face to face, for consumption on the Restaurant premises;
  - 1.3.2.2 Face to face, for personal carry-out consumption; and/or
  - 1.3.2.3 For catering service provided at customers' homes, offices, and other locations ("**Catering**"), and for delivery service through the use of an approved local third-party provider of delivery services ("**Delivery**"), and you agree that: **(a)** all Catering and Delivery activities must be conducted in accordance with the terms and conditions stated in this Agreement and the standards that we set in the Manual (as defined in Sections 1.4 and 10 below); and **(b)** we have the right to revoke our approval of Catering and/or Delivery at any time.
- 1.3.3 Other than operating your Franchised Business at the Approved Location, you agree not to engage in any other type of sale of, or offer to sell, or distribution of Products, including: **(a)** selling, distributing or otherwise providing, any Products to third parties at wholesale, or for resale or distribution by any third party, including corporate and commercial food service operations; and **(b)** selling, distributing or otherwise providing any Products through catalogs, mail order, toll free numbers, or electronic means (e.g., the Internet) (all of which, collectively, are "**Other Sales**").
- 1.3.4 You further understand that we shall not prohibit other Restaurants or any other restaurant or food service business (whether owned or franchised by us or our affiliates) from delivering food to customers at any location.
- 1.4 **Delivery and Catering.** You agree that Restaurants are primarily dine-in restaurants, and that we have the right to approve or disapprove any activity(ies) proposed to take place outside the Restaurant, including delivery and catering activities. We will consider various factors in determining whether to permit you to provide delivery or catering services from the Franchised Business (whether directly and/or through third parties), including the period of time you have been operating your Franchised Business, your sales volume, whether you have met certain quality standards and other benchmarks, and other standards that we may determine. In addition:
  - 1.4.1 You agree not to engage in Delivery and/or Catering services, whether inside or outside of the Protected Territory, unless you have obtained our prior written consent as to each proposed delivery and/or catering order.
  - 1.4.2 Any delivery or catering activities that you undertake must be conducted in accordance with the procedures that we specify in the Manual or otherwise in writing. By granting approval to any one or more proposals to cater or deliver (including a program and/or vendors for Catering and/or Delivery), we will not be deemed to have given our approval, or waived our right to disapprove, any ongoing or additional catering or delivery activities.

- 1.4.3 We have the right (but not the obligation) to establish a catering program that may include online and telephone ordering features, on our own and/or in conjunction with one or more outside vendors (the “**Catering Program**”). If we establish a Catering Program, you agree to participate and to pay the fees and costs associated with doing so.
- 1.4.4 We have the right to require that you conduct delivery only through Restaurant staff and/or approved third-party delivery vendors. We will have the right at all times to approve or disapprove of any such delivery services and other vendors (including aggregators and all other providers of goods and services relating to Catering and/or Delivery), including the arrangements that you propose to make with any third-party delivery vendor.
- 1.4.5 All delivery and catering sales will be considered as part of the Gross Sales (see Section 4.2.2 below) of your Franchised Business.
- 1.5 In addition to the “Nathan’s Famous” brand, you understand that we operate (or are affiliated with other companies that operate) businesses under other brand names (such as the “Kenny Rogers Roasters” and “Arthur Treacher’s” food concepts), and also that we may acquire other brands (or be acquired by a company that operates other brands) (collectively, “**Other Brands**”). You understand and agree that this Agreement grants you no rights with respect to any such Other Brands.

## **2 TERM AND RENEWAL**

- 2.1 *Term.* The term of this Agreement shall start on the Effective Date and, unless this Agreement is earlier terminated in accordance with its provisions, shall expire on the date indicated in the Data Addendum (Exhibit A) to this Agreement. If no date is specified in the Data Addendum, then this Agreement will expire ten (10) years to the day after the Effective Date.
- 2.2 *Renewal.* You will have the right to renew this Agreement for one (1) additional term of five (5) years; provided that you agree to meet all of the following conditions before renewal:
- 2.2.1 You agree to give us written notice of your choice to renew at least nine (9) months before the end of the term of this Agreement (but not more than one (1) year before the term expires).
- 2.2.2 You agree to remodel and refurbish the Franchised Business to comply with our then-current standards in effect for new Restaurants (as well as the provisions of Sections 5.4.4 and 8.6 below).
- 2.2.3 At the time of renewal, you must be in material compliance with the provisions of this Agreement (including any amendment to this Agreement), any successor to this Agreement, and/or any other contract between you (and your affiliates) and us (and our affiliates), and in our reasonable judgment, you must have been in material compliance during the term of this Agreement, even if we did not issue a notice of default or exercise our right to terminate this Agreement if you did not meet your obligations.
- 2.2.4 You must have timely met all of your financial obligations to us, our affiliates, the Marketing Development Fund, and/or the Regional Fund, as well as your vendors,

throughout the term of this Agreement (even if we did not issue a notice of default or exercise our right to terminate this Agreement if you did not meet your obligations).

- 2.2.5 You must sign our then-current form of franchise agreement, which will supersede this Agreement in all respects (except with respect to the renewal provisions of the new franchise agreement, which shall not supersede this Section 2), and which you acknowledge and agree may contain terms, conditions, obligations, rights, and other provisions that are substantially and materially different from those spelled out in this Agreement (including, for example, a higher percentage royalty fee and marketing contribution). If you are an entity, then your direct and indirect owners must sign and deliver to us a personal guarantee of your obligations under the renewal form of franchise agreement. (In this Agreement, the term “**entity**” includes (among other things) a corporation, limited liability company, partnership, and a limited liability partnership.)
- 2.2.6 Instead of a new initial franchise fee, you agree to pay to us a renewal fee in an amount equal to Fifteen Thousand Dollars (\$15,000).
- 2.2.7 You (and your owners, whether direct, indirect, or beneficial) agree to sign and deliver to us a release, in a form that we will provide (which will be a mutual release with limited exclusions), which will release all claims against us and our affiliates, and our respective directors, officers, members, managers, agents, and employees. If you are an entity, then your affiliates and your direct and indirect owners (and any other parties that we reasonably request) must also sign and deliver that release to us.
- 2.2.8 You and your personnel must meet our then-current qualification and training requirements.
- 2.2.9 You agree to present to us satisfactory evidence that you have the right to remain in possession of the Approved Location for the duration of the renewal term of this Agreement.
- 2.2.10 You must be current with respect to your financial and other obligations to your lessor, suppliers, and all other parties with whom you do business.

### **3 OUR DUTIES**

- 3.1 *Training.* We will provide you with the training specified in Section 6 below.
- 3.2 *Standard Layout.* We will make available, at no charge to you, a standard layout plan for the construction of a Restaurant and for the exterior and interior design and layout, fixtures, furnishings, equipment, and signs. We will also provide the site selection and lease review assistance called for under Section 5.3 below.
- 3.3 *Opening and Additional Assistance.* If you have five (5) or fewer Restaurants operating under the System, we will provide a representative to be present at the opening of the Franchised Business. We will provide such additional on-site pre-opening and opening supervision and assistance that we think is advisable, and as may be described in the Manual (defined below).

- 3.4 *Manual.* We will lend to you one (1) copy of the confidential operations manuals and other written instructions relating to the operation of a Restaurant (the “**Manual**”), in the manner and as described in Section 10 below.
- 3.5 *Marketing Materials.* We have the right to approve or disapprove all marketing and promotional materials that you propose to use, pursuant to Section 13 below.
- 3.6 *Marketing Funds.* We will administer the Nathan’s Famous Marketing and Development Fund (as defined in Section 13 below) in the manner set forth in Section 13 below.
- 3.7 *Inspection Before Opening.* We will evaluate the Franchised Business before it first opens for business. You agree to not open the Franchised Business or otherwise start operations until you have received our prior written approval.
- 3.8 *Periodic Assistance.* We will provide you periodic assistance in the marketing, management, and operation of the Franchised Business at the times and in the manner that we determine. We will periodically offer you the services of certain of our representatives, such as an accounting manager, and these representatives will periodically visit your Franchised Business and offer advice regarding your operations.
- 3.9 *Services Performed.* You acknowledge and agree that any of our designees, employees, agents, or independent contractors (such as an “area developer”) may perform any duty or obligation imposed on us by the Agreement, as we may direct (if so, we will, nonetheless, remain responsible to you for the performance of these obligations).
- 3.10 *Our Decision-Making.* In fulfilling our obligations under this Agreement, and in conducting any activities or exercising our rights pursuant to this Agreement, we (and our affiliates) will always have the right: **(a)** to take into account, as we see fit, the effect on, and the interests of, other franchised businesses and systems in which we have an interest and on our activities (and those of our affiliates’); **(b)** to share market and product research, and other proprietary and non-proprietary business information, with other franchised businesses and systems in which we (or our affiliates) have an interest, and/or with our affiliates; **(c)** to introduce Proprietary Items and non-proprietary items or operational equipment used by the System into other franchised systems in which we have an interest; and/or **(d)** to allocate resources and new developments between and among systems, and/or our affiliates, as we see fit. You understand and agree that all of our obligations under this Agreement are subject to this Section 3.10, and that nothing in this Section 3.10 in any way affects your obligations under this Agreement.
- 3.11 *Confirmation of Performance.* After we have performed our pre-opening obligations to you under this Agreement, we may ask that you execute and deliver to us a confirmation (the “**Confirmation of Performance**”), in a form we reasonably request, confirming that we have performed those obligations. If we ask you to provide us with such a certificate, you agree to execute and deliver the Confirmation of Performance to us within three (3) business days after our request. However, if you do not reasonably believe that we have performed all of our pre-opening obligations, you must, within that same three (3) day period, provide us with written notice specifically describing the obligations that we have not performed. Not later than three (3) business days after we complete all the obligations that you specified in that notice, you agree to execute and deliver the Confirmation of Performance to us. You agree to do so even if we performed such obligations after the time performance was due under this Agreement. The term “pre-opening obligations” means the obligations we have to you under this Agreement that must be performed before the date when your Franchised Business starts its operations.

## 4 ROYALTY FEES; SALES REPORTING

- 4.1 *Initial Franchise Fee.* You agree to pay us an initial franchise fee of Thirty Thousand Dollars (\$30,000) (the “**Initial Franchise Fee**”). The Initial Franchise Fee is due and payable to us on the day that you sign this Agreement. The Initial Franchise Fee is not refundable in consideration of administrative and other expenses that we incur in granting this franchise and for our lost or deferred opportunity to grant a franchise to other parties.
- 4.2 *Royalty Fee and Sales Reports.* For each Month during the term of this Agreement, you agree to pay us a continuing royalty fee in an amount equal to five and one-half percent (5.5%) of the Gross Sales of the Franchised Business (“**Royalty Fees**”). As used in this Agreement:
- 4.2.1 The term “**Month**” means a four- or five-week period (or calendar month) that we designate, but there will not be more than 13 “Months” in a given calendar year, or 26 “Months” over a two-year period.
- 4.2.2 The term “**Gross Sales**” means all revenue from the sale of all Products, services and Proprietary Items, and all other income of every kind and nature related to, derived from, or originating from the Franchised Business, including proceeds of any business interruption insurance policies, and sales from catering and delivery if permitted; whether such sales are made at retail or wholesale (whether permitted or not), whether for cash, check, or credit, and regardless of collection in the case of check or credit. However, Gross Sales excludes customer refunds and ordinary discounts, as well as sales taxes and/or other taxes that you directly collect from customers and actually transmit to the appropriate taxing authorities.
- 4.3 *Alternative Royalty Fees and Other Payments.* If we permit you to offer and sell alcoholic beverages from the Restaurant pursuant to Section 8.8.7 below, and if applicable law (state or local) prohibits or restricts in any way your ability to pay (or our ability to collect) Royalty Fees or other amounts based on Gross Sales derived from the sale of alcoholic beverages at the Franchised Business, then the parties will renegotiate and agree (in writing) on a new structure for the Royalty Fees and other provisions so as to provide the same basic economic effect to both parties, as otherwise provided in this Agreement, with a corresponding change to the definition of Gross Sales.
- 4.4 *Due Date.* All payments required by Section 4.2 above and Section 13 below must be paid and submitted so that they are received by us, in our offices, by the tenth (10<sup>th</sup>) day of each Month, based on the Gross Sales of the previous Month just ended. In addition, you agree to all of the following:
- 4.4.1 You agree to deliver to us all of the reports, statements, and/or other information that is required under Section 12.3 below, at the time and in the format that we reasonably request.
- 4.4.2 You agree to establish an arrangement for electronic funds transfer to us, or electronic deposit to us of any payments required under Sections 4 or 13 of this Agreement. Among other things, to implement this point, you agree to sign and return to us our current form of “ACH - Authorization Agreement for Prearranged Payments (Direct Debits),” a copy of which is attached to this Agreement as Exhibit D (and any replacements for that form that we deem to be periodically needed to implement this Section 4.4.2), and you agree to comply with the payment and reporting procedures that we may specify in the Manual or otherwise in writing.

- 4.4.3 You acknowledge and agree that your obligation to make full and timely payment of Royalty Fees and Marketing Development Fund Contributions (and all other sums due to us) is absolute, unconditional, fully-earned (by us), and due when you have generated and received Gross Sales.
- 4.4.4 You agree that you will not, for any reason, delay or withhold the payment of any amount due to us under this Agreement; put into escrow any payment due to us; set-off payments due to us against any claims or alleged claims that you may allege against us, the Marketing Development Fund, the Regional Fund or others.
- 4.4.5 You agree that if you do not provide us, as requested, with access to your computer system to obtain sales information or, if we require pursuant to Section 12.1.4 below or otherwise, printed and signed sales reports, then we will have the right to impute your sales for any period using (among other things) your sales figures from any Month(s) that we choose (which may be those with your highest grossing sales), and that you agree to pay the royalties on that amount (whether by check or by our deduction of that amount from your direct debit account).
- 4.4.6 You agree that you will not, whether on grounds of alleged non-performance by us or others, withhold payment of any fee, including, without limitation, Royalty Fees or Marketing Development Fund Contributions, nor withhold or delay submission of any reports due under this Agreement.
- 4.5 *No Subordination.* You agree not to subordinate to any other obligation your obligation to pay us the royalty fee and/or any other amount payable to us, whether under this Agreement or otherwise, and that any such subordination commitment that you may give without our prior written consent shall be null and void.
- 4.6 *Late Payment.* If we do not receive any payment due under this Agreement (and if the appropriate marketing fund does not receive payment due) on or before the due date, then that amount shall be deemed overdue. If any payment is overdue, then you agree to pay us, in addition to the overdue amount, interest on the overdue amount from the date it was due until paid, at the rate of one and one-half percent (1.5%) per month (but not to exceed any applicable maximum rate imposed under law). Our right to collect interest will be in addition to any other remedies we may have. Any report that we do not receive on or before the due date shall also be deemed overdue.
- 4.7 *Other Funds Due.* You agree to pay us, within ten (10) days of our written request (which is accompanied by reasonable substantiating material), any monies that we have paid, or that we have become obligated to pay, on your behalf, by consent or otherwise under this Agreement.
- 4.8 *Index.* We have the right to adjust, for inflation, all fixed-dollar amounts under this Agreement (except for the Initial Franchise Fee) once a year to reflect changes in the Index from the year when you signed this Agreement. For the purpose of this Section 4.8, the term "**Index**" means the Consumer Price Index (1982-84=100; all items; CPI-U; all urban consumers) as published by the U.S. Bureau of Labor Statistics ("**BLS**"). If the BLS no longer publishes the Index, then we will have the right to designate a reasonable alternative measure of inflation.

## **5 FRANCHISED BUSINESS LOCATION, CONSTRUCTION AND RENOVATION**

- 5.1 *Opening the Franchised Business.* You are responsible for purchasing, leasing, or subleasing a suitable site for the Franchised Business. You agree to establish the

Franchised Business and have it open and in operation within one (1) year after the Effective Date of this Agreement. **Time is of the essence.**

- 5.1.1 You acknowledge and agree that any site selection assistance or approval that we provide shall neither be construed nor interpreted as a guarantee of success for the Approved Location (or any other site), nor shall any location recommendation or approval we make be deemed a representation that any particular location is available or suitable for use as a Franchised Business.
- 5.1.2 In addition, you agree, at your sole expense, to do or cause to be done the following within one hundred twenty (120) days after the execution of the lease, sublease or purchase contract for the Restaurant:
  - 5.1.2.1 secure all financing required to develop the Restaurant fully;
  - 5.1.2.2 construct all required improvements to the Approved Location and decorate the Restaurant in compliance with plans and specifications we have approved;
  - 5.1.2.3 purchase or lease and install all required fixtures, equipment, furnishings and signs required for the Restaurant; and
  - 5.1.2.4 purchase an opening inventory of authorized and approved products and other materials and supplies.
- 5.2 *Lease Review.* You must provide us with a copy of the lease or purchase agreement proposed for the Approved Location, and you must receive our written approval, before you enter into such lease or purchase agreement. Our approval of the lease or purchase agreement shall be conditioned upon the inclusion in the lease or purchase agreement of terms acceptable to us, and that are consistent with our rights and your responsibilities under this Agreement.
- 5.3 *Review.* Any reviews that we conduct under this Section 5 are only for our benefit. You also acknowledge and agree to all of the following:
  - 5.3.1 You acknowledge and agree that our review and approval of a site, lease, sublease, design plans or renovation plans for the Store do not constitute a recommendation, endorsement, or guarantee of the suitability of that location or the terms of the lease, or sublease, or purchase agreement. You agree that you will take all steps necessary to determine for yourself whether a particular location and the terms of any lease, sublease, or purchase agreement for the site are beneficial and acceptable to you.
  - 5.3.2 You also acknowledge and agree that no matter to what extent (if any) that we participate in lease negotiations, discussions with the landlord, and/or otherwise in connection with reviewing the lease, you have to make the final decision as to whether or not the lease is sensible for your business, and the final decision as to whether or not to sign the lease is yours, and you agree not hold us responsible with respect to the terms and conditions of your lease.
  - 5.3.3 Additionally, with respect to any review of your design plans and construction or renovation plans, or other federal, state, or local health regulations, we will not review whether you are in compliance with federal, state, or local laws and regulations, including the ADA (defined below), and you acknowledge and agree that: **(a)** you are

solely responsible for compliance with all such laws and regulations; and **(b)** our approval is not, and will not be deemed to be, an assessment as to whether or not you have complied with those laws and regulations.

- 5.4 *Preparing the Site.* You agree that, promptly after obtaining possession of the approved site for the Franchised Business, you shall do all of the following things:
- 5.4.1 cause to be prepared and submit for our approval a description of any modifications to our specifications for a Franchised Business (including requirements for dimensions, exterior design, materials, interior design and layout, equipment, fixtures, furniture, signs and decorating materials) required for the development of a Franchised Business at the site leased or purchased for that purpose, provided that you may modify our specifications only to the extent required to comply with all applicable ordinances, building codes and permit requirements (with prior notification to and written approval from us);
  - 5.4.2 obtain all required zoning permits, liquor licenses, all required building, utility, health, sign permits and licenses, and any other required permits and licenses;
  - 5.4.3 purchase or lease equipment, fixtures, furniture and signs as required under this Agreement (including the specifications we have provided in writing, whether in the Manual or otherwise);
  - 5.4.4 complete the construction and/or remodeling, equipment, fixture, furniture and sign installation and decorating of the Franchised Business in full and strict compliance with plans and specifications for the Franchised Business that we have approved in writing, as well as all applicable ordinances, building codes and permit requirements;
  - 5.4.5 obtain all customary contractors' sworn statements and partial and final waivers of lien for construction, remodeling, decorating and installation services; and
  - 5.4.6 otherwise complete development of and have the Franchised Business ready to open and commence the conduct of its business in accordance with Section 5.1 above.
- 5.5 *Use of the Premises.* You may use the Approved Location only for the purpose of operating the Franchised Business and for no other purpose. You agree not to co-brand or permit any other business to operate at the Approved Location without our prior written approval.
- 5.6 *Relocation.* You agree not to relocate the Franchised Business without our prior written consent. We will have the right to grant or to withhold our approval of any proposed location or relocation and, if our approval is granted, you understand that our approval will not be deemed to be our guarantee, representation, or assurance that your Franchised Business shall be profitable or successful at that location or elsewhere. Any proposed relocation will be subject to our review of the new site under our then-current standards for site selection, except that we will also have the right to take into consideration any commitments we have given to other franchisees, licensees, landlords, and other parties relating to the proximity of a new restaurant to their establishment. In addition, and instead of a new franchise fee, you agree to reimburse us for the out-of-pocket costs that we incur in connection with reviewing and approving your proposed relocation, any related lease matters, and any necessary amendments to this Agreement (including our attorneys' fees).

5.7 *Construction or Renovation.* In connection with any construction or renovation of the Franchised Business (and before you start any such construction or renovation) you agree to comply, at your expense, with all of the following requirements, which you agree to satisfy to our reasonable satisfaction:

5.7.1 You agree to employ a qualified, licensed architect or engineer who is reasonably acceptable to us to prepare, for our approval, preliminary plans and specifications for site improvement and construction of the Franchised Business based upon prototype design and image specifications we will furnish in the Manual (depending on whether your Franchised Business will be operated in a stand-alone facility, and end-cap, or as a retro-fit of an existing building). Our approval shall be limited to conformance with our standard image specifications and layout, and shall not relate to your obligations with respect to any federal, state and local laws, codes and regulations including, without limitation, the applicable provisions of the Americans with Disabilities Act (the “**ADA**”) regarding the construction, design and operation of the Franchised Business, which subjects shall be your sole responsibility.

5.7.2 You agree to comply with all federal, state, and local laws, codes and regulations, including, without limitation, the applicable provisions of the ADA regarding the construction, design and operation of the Franchised Business. If you receive any complaint, claim, or other notice alleging a failure to comply with the ADA, you agree to provide us with a copy of that notice within five (5) days after you have received the notice.

5.7.3 In connection with any standard layout and equipment plans that we provide to you, you acknowledge that such specifications do not meet and are not meant to address the requirements of any federal, state or local law, code or regulation (including those concerning the ADA and/or similar rules governing public accommodations or commercial facilities for persons with disabilities), nor shall such plans contain the requirements of, or be used for, construction drawings or other documentation necessary to obtain permits or authorization to build a specific Franchised Business, compliance with all of which shall be your responsibility and at your expense. In addition:

5.7.3.1 You agree to adapt, at your expense, the standard specifications to the Franchised Business location, subject to our approval, as provided in above in Section 5.7.1, which we will not unreasonably withhold, provided that such plans and specifications conform to our general criteria.

5.7.3.2 You understand and acknowledge that we have the right to modify the prototype architectural plans and specifications as we deem appropriate periodically (however, we will not modify the prototype architectural plans and specifications for the Franchised Business developed pursuant to this Agreement once those prototype architectural plans and specifications have been given to you).

5.7.4 You are solely responsible for obtaining all zoning classifications and clearances which may be required by state or local laws, ordinances, or regulations (or that may be necessary or advisable due to any restrictive covenants relating to your location). After having obtained such approvals and clearances, you agree to submit to us, for our prior written approval, final plans for construction based upon the preliminary plans and specifications.

- 5.7.4.1 Our review and approval of plans shall be limited to review of such plans to assess compliance with our design standards for Restaurants, including such items as trade dress, presentation of Proprietary Marks, and the provision to the potential customer of certain products and services that are central to the purpose, atmosphere, and functioning of "Nathan's Famous" Restaurants.
- 5.7.4.2 We will not review nor shall any approval be deemed to include your compliance with federal, state, or local laws and regulations, including the ADA, and you acknowledge and agree that compliance with such laws is and shall be your sole responsibility.
- 5.7.4.3 Once we have approved those final plans, you cannot later change or modify the plans without our prior written consent. Any such change made without our prior written permission shall constitute a material default under this Agreement and we may withhold our authorization to open the Franchised Business (or if the Franchised Business is already open and operational we may require you to close the Franchised Business) for business until the unauthorized change is rectified (or reversed) to our reasonable satisfaction.
- 5.7.5 You agree to obtain (and maintain) all permits and certifications required for the lawful construction and operation of the Franchised Business and certify in writing to us that all such permits and certifications have been obtained.
- 5.7.6 You agree to employ a qualified licensed general contractor who is reasonably acceptable to us to construct the Franchised Business and to complete all improvements.
- 5.7.7 You agree to obtain (and maintain) during the entire period of construction the insurance required under Section 15 below; and you agree to deliver to us such proof of such insurance as we may reasonably require.
- 5.7.8 You acknowledge and agree that any site selection assistance or approval that we provide is not to be construed or interpreted as our guarantee of success for said location, nor shall any location that we recommend, or approval that we give, be deemed as our representation that the location is available or suitable for your use as a Franchised Business.
- 5.8 *Pre-Opening.* Before opening for business, you agree to meet all of the pre-opening requirements specified in this Agreement, the Manual, and/or that we may otherwise specify in writing. Additionally, before opening the Franchised Business, and after any renovation, you agree to execute and deliver to us an ADA Certification in the form attached to this Agreement as Exhibit E, to certify that the Franchised Business and any proposed renovations comply with the ADA.
- 5.9 *Opening Promotion.* You shall conduct, at your expense, such grand opening promotional and advertising activities as we may require which expense shall be credited against your obligation to pay a Marketing Development Fund Contribution, as set forth in Section 13 below.
- 5.10 *Report.* Within ninety (90) days after the Franchised Business first opens for business, you agree to give us a full written breakdown of all costs associated with the development and

construction of the Franchised Business, in the form that we may reasonably find acceptable or that we may otherwise require.

## **6 TRAINING AND PERSONNEL**

- 6.1 *Your Training and Personnel Obligations.* Before opening the Restaurant, you (or, if you are an entity, your controlling principal who is also designated to serve as your general manager who we have previously approved to serve in that role (the “**Operating Partner**”)) and two (2) or more of your additional designated management employees who we have previously approved, shall attend and successfully complete, to our satisfaction, the basic training program we offer (“**Specially Trained Management Employees**”). We shall have the right to determine the exact number of such Specially Trained Management Employees, and we may periodically increase or decrease the number of Specially Trained Management Employees required to attend and successfully complete training. You shall maintain that number of Specially Trained Management Employees in the employ of the Restaurant throughout the term of this Agreement. If you or any Specially Trained Management Employee ceases active employment at the Restaurant, you shall enroll a qualified replacement who is acceptable to us in our training program within thirty (30) days of cessation of the former Specially Trained Management Employee’s employment. The replacement Specially Trained Management Employee shall attend and successfully complete the basic management training program as soon as is practicable. Franchisee and its Specially Trained Management Employees may also be required to attend such refresher courses, seminars, and other training programs as Franchisor may reasonably require periodically. The cost of the training (instruction and required materials) shall be borne by Franchisor. All other expenses during the training period, including costs of accommodations, wages, and travel, shall be borne by Franchisee.
- 6.2 *Training Expenses.* For all training courses, seminars, and programs, we shall provide instructors and training materials without cost to you, and you shall be responsible for any and all other expenses incurred by your employees in connection with any such courses, seminars, and programs, including, the costs of transportation, lodging, meals, wages, and worker’s compensation insurance.
- 6.3 *Operating Partner.* The Franchised Business must be under the active full-time management of either you or the Operating Partner who has successfully completed (to our satisfaction) our initial training program. For the purpose of this Section 6.3, the Operating Partner must be a person who has an ownership interest in Franchisee, and who has executed the Guarantee, Indemnification, and Acknowledgement attached to this Agreement as Exhibit B.
- 6.4 *Additional Training.* Your Specially Trained Management Employees may also be required to attend such refresher courses, seminars, and other training programs as we may reasonably specify periodically. You may ask us to provide on-site training in addition to that which we will provide to you in connection with the initial training program and/or the opening of the Franchised Business, and if we are able to do so, then you agree to pay us our then-current per diem training charges as well as our out-of-pocket expenses.
- 6.5 *Individual Covenants.* We will have the right to require that your trainees execute and deliver to us a personal covenant of confidentiality and non-competition in substantially the form appended hereto as Exhibit F.
- 6.6 *Personnel.* You and your staff must, at all times, cooperate with us and with our representatives. We will have the ongoing right to approve or disapprove of the service of individuals in your Franchised Business as to the role that they play in your business

(including the capacity of Specially Trained Management Employees, such as the Operating Partner); if any time we disapprove of such an individual, you agree to remove him/her from the role that we disapprove (but you understand and agree that our disapproval of any individual's service in a particular role is not meant to be, and should not be construed as, any instruction or demand on our part that the individual should be dismissed as an employee).

## 7 PRODUCT AND SUPPLY

7.1 *Supplies.* You agree to buy all Products, ingredients, supplies, materials, and other products used or offered for sale at the Franchised Business only from suppliers that we have approved in writing (and whom we have not subsequently disapproved). In determining whether we will approve any particular supplier, we will consider various factors, including: **(a)** whether the supplier can demonstrate, to our continuing reasonable satisfaction, the ability to meet our then-current standards and specifications for such items; **(b)** whether the supplier has adequate quality controls and capacity to supply your needs promptly and reliably; **(c)** whether approval of the supplier would enable the System, in our sole opinion, to take advantage of marketplace efficiencies; and **(d)** whether the supplier will sign a confidentiality agreement and a license agreement in the form that we may require (which may include a royalty fee for the right to use our Proprietary Marks and any other proprietary rights, recipes, and/or formulae). For the purpose of this Agreement, the term “**supplier**” includes, but is not limited to, manufacturers, distributors, resellers, and other vendors.

7.1.1 You acknowledge and agree that we have the right to appoint only one supplier for any one or more items (including distributors, soft drink suppliers, and similar items), which may be us or one of our affiliates.

7.1.2 Notwithstanding anything to the contrary in this Agreement, you agree to buy all of your requirements for any Proprietary Items only from us or from our designee(s), as provided in Section 7.2 below (possibly through one or more distributors that we designate in writing). We have the right, but not the obligation, to periodically introduce additional Proprietary Items.

7.1.3 We have the right (directly, through our affiliates, and/or our designees) to establish food commissaries and distribution facilities, and we have the right to designate these as approved or required manufacturers, suppliers or distributors.

7.1.4 If you want to buy any Products or any items (except for Proprietary Items) from an unapproved supplier, you agree to first submit a written request to us asking for our prior written approval. You agree not to buy from any such supplier unless and until we have given you our prior written consent to do so. We have the right to require that our representatives be permitted to inspect the supplier's facilities, and that samples from the supplier be delivered, either to us or to an independent laboratory that we have designated for testing. You (or the supplier) may be required to pay a charge, not to exceed the reasonable cost of the inspection, as well as the actual cost of the test. We have the right to also require that the supplier comply with such other requirements that we have the right to designate, including payment of reasonable continuing inspection fees and administrative costs and/or other payment to us by the supplier on account of their dealings with you or other franchisees, for use of our trademarks, and for services that we may render to such suppliers. We also reserve the right, at our option, to periodically re-inspect the facilities and products of any such approved supplier and to revoke our approval if the supplier does not continue to meet any of our then-current criteria.

- 7.1.5 Nothing in the other provisions of this Agreement shall be construed to require us to approve any particular supplier, nor to require that we make available to prospective suppliers, standards and specifications for formulas, which we have the right to deem confidential.
- 7.1.6 Notwithstanding anything to the contrary contained in this Agreement, you acknowledge and agree we have the right to establish one or more strategic alliances or preferred vendor programs with one or more nationally or regionally-known suppliers that are willing to supply all or some Restaurants with some or all of the products and/or services that we require for use and/or sale in the development and/or operation of Restaurants. In this event, we may limit the number of approved suppliers with whom you may deal, designate sources that you must use for some or all Products, Proprietary Items, and other products and services, and/or refuse any of your requests if we believe that this action is in the best interests of the System or the network of Restaurants. We have the right to approve or disapprove of the suppliers who may be permitted to sell Products to you.
- 7.1.7 You acknowledge and agree that we have the right to collect and retain all manufacturing allowances, marketing allowances, rebates, credits, monies, payments or benefits (collectively, "**Allowances**") offered by suppliers to you or to us (or our affiliates) based upon your purchases of Products, Proprietary Items, and other goods and services. These Allowances include those based on System-wide purchases of beverages, food, paper goods, and other items. You assign to us or our designee all of your right, title and interest in and to any and all such Allowances and authorize us (or our designee) to collect and retain any or all such Allowances without restriction.
- 7.1.8 If we require you to offer and sell items that bear our Proprietary Marks, or to use items that bear our Proprietary Marks, then you must buy, use, and sell only the items that we require, and you must buy those items only from us, our designated suppliers, and/or our approved suppliers.
- 7.2 *Proprietary Items.* You acknowledge and agree that the hot dogs and other Proprietary Items we may specify for sale at the Franchised Business are manufactured in accordance with our secret blends, standards, and specifications, and are Proprietary Items of ours and/or our affiliates. In order to maintain the high standards of quality, taste, and uniformity associated with any Proprietary Items sold under the System, you agree to buy Proprietary Items only from us or from our designee(s), and not to offer or sell any items that are similar to (but not the same as) Proprietary Items at or from the Franchised Business. In connection with the handling, storage, transport and delivery of any Proprietary Items that you buy from us, our affiliates or designee(s), you agree that any action (or inaction) by a third party (e.g., an independent carrier) in connection with the handling, storage, transport and delivery of the Proprietary Items shall not be attributable to us, nor constitute negligence on our part.
- 7.3 *Employee Attire and Personal Appearance.* Your employees must comply with such dress code or standards as we may require, which may include use of branded (or other "**uniform**") apparel, and otherwise identify themselves with the Proprietary Marks at all times in the manner we specify (whether in the Manual or otherwise in writing) while on a job for the Franchised Business. We may also require that you and your employees comply with personal appearance standards (including dress code, shoes, hair color, body art, piercing, sanitation and personal hygiene, foundation garments, personal displays at work stations, etc.).

## 8 YOUR DUTIES

In addition to all of the other duties specified in this Agreement, you agree to all of the following:

- 8.1 *Importance of Following Standards.* You acknowledge and agree that every detail of the Franchised Business is important to you, to us, and to other “Nathan’s Famous” franchisees and licensees in order to develop and maintain high operating standards, to increase the demand for the Products, Proprietary Items, and services sold by all franchisees, and to protect our reputation and goodwill.
- 8.2 *Opening.* In connection with the opening of the Franchised Business:
- 8.2.1 You agree to conduct, at your expense, such promotional and marketing activities as we may require.
- 8.2.2 You agree to open the Franchised Business by the date specified in Section 5.1 above. You agree to give us written notice at least fourteen (14) days before the date on which you propose to first open the Franchised Business for business. We reserve the right to have our representative(s) present at the opening of the Franchised Business, and if we so require, you shall not open the Franchised Business without the on-site presence of the representative(s) we select; however, we agree not to unreasonably delay the opening of the Franchised Business.
- 8.2.3 You agree not to open the Franchised Business until we have determined that all construction has been substantially completed, and that such construction conforms to our standards including, but not limited, to materials, quality of work, signage, decor, paint, and equipment, and we have given you our prior written approval to open, which we will not unreasonably withhold.
- 8.2.4 You agree not to open the Franchised Business until the Specially Trained Management Employees have successfully completed all training that we require, and not until you have hired and trained to our standards a sufficient number of employees to service the anticipated level of the Franchised Business’s customers.
- 8.2.5 In addition, you agree not to open the Franchised Business until the Initial Franchise Fee and any other amounts due to us (and our affiliates) under this Agreement or any other agreements have been paid.
- 8.3 *Health Standards.* You agree to meet and maintain the highest health standards and ratings applicable to the operation of the Franchised Business. If any government agency inspects your Restaurant, then you agree to send us, within five (5) days of your receipt, a copy of all inspection reports, warnings, citations, certificates, and/or ratings that are provided to you.
- 8.4 *Use of the Premises.*
- 8.4.1 You may use the Franchised Business premises only for the operation of the Franchised Business; and you also agree not to use or permit the Franchised Business premises to be used for any other purpose or activity at any time. As used in this Agreement, the term “premises” include the grounds surrounding the Approved Location for the Franchised Business.

- 8.4.2 You agree to keep the Franchised Business open and in normal operation for the hours and days that we may periodically specify in the Manual or as we may otherwise approve in writing.
- 8.5 *Franchised Business Condition and Maintenance.* You agree that at all times, you will maintain the Franchised Business in a high degree of sanitation, repair, and condition. In addition, you agree to make such repairs and replacements to the Franchised Premises as may be required for that purpose (but no others without our prior written consent), including the periodic repainting or replacement of obsolete signs, furnishings, equipment, and decor that we may reasonably require. You also agree to obtain maintenance services from qualified vendors for all major items of equipment used in the Franchised Business and maintain those service agreements at all times.
- 8.6 *Remodeling.* You agree to refurbish the Franchised Business at your expense to conform to our then-current building design, exterior facade, trade dress, signage, furnishings, decor, color schemes, and presentation of the Proprietary Marks in a manner consistent with the then-current image for new Restaurants, including remodeling, redecoration, and modifications to existing improvements, all of which we may require in writing (collectively, “**Remodeling**”). In this regard, the parties agree that:
- 8.6.1 You will not have to conduct a Remodeling more than once every ten (10) years during the term of this Agreement (and not in an economically unreasonable amount); provided, however, that we may require Remodeling more often if Remodeling is required as a pre-condition to renewal (as described in Section 2.2.2 above); and
- 8.6.2 You will have six (6) months after you receive our written notice within which to complete Remodeling.
- 8.7 *Staffing.* You agree to maintain a competent, conscientious, trained staff in numbers sufficient to promptly service customers, including at least one (1) manager on duty at all times, and to take such steps as are necessary to ensure that your employees preserve good customer relations and comply with such dress code as we may prescribe.
- 8.8 To insure that the highest degree of quality and service is maintained, you agree to operate your Franchised Business in strict conformity with such methods, standards, and specifications that we may periodically require in the Manual or otherwise in writing. In this regard, you agree to do all of the following:
- 8.8.1 You agree to maintain in sufficient supply, and to use and/or sell at all times only the Products, ingredients, materials, supplies, and paper goods that meet our written standards and specifications, and you also agree not to deviate from our standards and specifications by using or offering any non-conforming items without our specific prior written consent.
- 8.8.2 You agree: **(a)** to sell or offer for sale only those Products and services that we have approved in writing for you to sell at your Franchised Business; **(b)** to sell or offer for sale all those Products, utilizing the ingredients and employing the preparation standards and techniques that we specify in writing; **(c)** not to deviate from our standards and specifications, including manner of preparation of Products; **(d)** to stop selling and offering for sale any Products or services that we at any time disapprove in writing (recognizing that we have the right to do so at any time); and **(e)** that if you propose to deviate (or if you do deviate) from our standards and specifications,

whether or not we have approved the deviation, that deviation shall become our property.

- 8.8.3 You agree to permit us, or our agents, at any reasonable time, to remove samples of Products, without payment, in amounts reasonably necessary for testing by us or an independent laboratory to determine whether those samples meet our then-current standards and specifications. In addition to any other remedies we may have under this Agreement, we may require you to bear the cost of such testing if we had not previously approved the supplier of the item or if the sample fails to conform to our specifications.
  - 8.8.4 You agree to buy and install, at your expense, all fixtures, furnishings, equipment, decor, and signs as we may specify.
  - 8.8.5 You agree not to install or permit to be installed on or about the premises of the Franchised Business, without our prior written consent, any fixtures, furnishings, equipment, decor, signs, or other items that we have not previously in writing approved as meeting our standards and specifications.
  - 8.8.6 You agree not to install or permit anyone else to install any vending machine, game or coin-operated (or electronic counterpart) device without our prior written consent to do so.
  - 8.8.7 You agree to refrain from selling, offering to sell, or permitting any other party to sell or offer to sell beer, wine, or any form of liquor, without our advance written authorization, which authorization we shall have the right to grant or deny.
  - 8.8.8 You agree not to offer mobile carts, bulk orders, or call-ahead orders. You agree not to offer catering or delivery services except as permitted under Section 1.5 above.
  - 8.8.9 You agree to fully and faithfully comply with all laws and regulations applicable to your Franchised Business.
  - 8.8.10 You agree to immediately suspend operation of (and close) the Franchised Business if: **(a)** any Products sold at the Franchised Business appears to have been adulterated or otherwise deviate from our standards for Products; **(b)** any Products sold at the Franchised Business fail to comply with applicable laws or regulations; and/or **(c)** you fail to maintain the Products, Franchised Business premises, equipment, personnel, or operation of the Franchised Business in accordance with any applicable law or regulations. In the event of such closing, you agree to immediately notify us, in writing, and also destroy all contaminated or adulterated products, eliminate the source of those products, and remedy any unsanitary, unsafe, or other condition or other violation of the applicable law or regulation. You agree not to reopen the Franchised Business until after we have inspected the Franchised Business premises, and we have determined that you have corrected the condition and that all Products sold at the Franchised Business comply with our standards.
- 8.9 *Use of the Marks.* You will require all marketing and promotional materials, signs, decorations, merchandise, paper and plastic (for example, disposable) goods, any and all replacement trade dress products, and other items that we may designate to bear our then-current Proprietary Marks and logos in the form, color, location, and manner that we have then-prescribed.

8.10 *If You Are an Entity:*

- 8.10.1 *Corporate Franchisee.* If you are a corporation, then you agree to: **(a)** confine your activities, and your governing documents shall at all times provide that your activities are confined, exclusively to operating the Franchised Business; **(b)** maintain stop transfer instructions on your records against the transfer of any equity securities and shall only issue securities upon the face of which a legend, in a form satisfactory to us, appears which references the transfer restrictions imposed by this Agreement; **(c)** not issue any voting securities or securities convertible into voting securities; and **(d)** maintain a current list of all owners of record and all beneficial owners of any class of voting stock of your company and furnish the list to us upon request.
- 8.10.2 *Partnership/LLP Franchisee.* If you are a partnership or a limited liability partnership (LLP), then you agree to: **(a)** confine your activities, and your governing documents shall at all times provide that your activities are confined, exclusively to operating the Franchised Business; **(b)** furnish us with a copy of your partnership agreement as well as such other documents as we may reasonably request, and any amendments thereto; **(c)** prepare and furnish to us, upon request, a current list of all of your general and limited partners; and **(d)** consistent with the transfer restrictions set out in this Agreement, maintain instructions against the transfer of any partnership interests without our prior written approval.
- 8.10.3 *LLC Franchisee.* If you are a limited liability company (LLC), then you agree to: **(a)** confine your activities, and your governing documents shall at all times provide that your activities are confined, exclusively to operating the Franchised Business; **(b)** furnish us with a copy of your articles of organization and operating agreement, as well as such other documents as we may reasonably request, and any amendments thereto; **(c)** prepare and furnish to us, upon request, a current list of all members and managers in your LLC; and **(d)** maintain stop transfer instructions on your records against the transfer of equity securities and shall only issue securities upon the face of which bear a legend, in a form satisfactory to us, which references the transfer restrictions imposed by this Agreement.
- 8.10.4 *Guarantees.* You agree to obtain, and deliver to us, a guarantee of your performance under this Agreement and covenant concerning confidentiality and competition, in the form attached as Exhibit B, from each current and future direct and indirect: **(a)** shareholder of a corporate Franchisee; **(b)** member of a limited liability company Franchisee; **(c)** partner of a partnership Franchisee; and/or **(d)** partner of a limited liability partnership Franchisee.
- 8.11 *Quality-Control and Guest Survey Programs.* We may periodically designate an independent evaluation service to conduct a "mystery shopper," "guest survey," and/or similar quality-control and evaluation programs with respect to "Nathan's Famous" Restaurants. You agree to participate in such programs as we require, and promptly pay the then-current charges of the evaluation service. If you receive an unsatisfactory or failing report in connection with any such program, then you agree to: **(a)** immediately implement any remedial actions we require; and **(b)** reimburse us for the expenses we incur as a result thereof (including the cost of having the evaluation service re-evaluate the Franchised Business, our inspections of the Franchised Business, and other costs or incidental expenses).
- 8.12 *Prices.* You agree that we may set reasonable restrictions on the maximum and minimum prices you may charge for the menu items, products, and/or services offered and sold under this Agreement. You will have the right to set the prices that you will charge to your

customers; provided, however, that (subject to applicable law): **(a)** if we have set a maximum price for a particular item, then you may charge any price for that item up to and including the maximum price we have set; and **(b)** if we have set a minimum price for a particular item, then you may charge any price for that item that is equal to or above the minimum price we have set.

8.13 *Environmental Matters.* We are committed to working to attain optimal performance of Restaurants with respect to environmental, sustainability, and energy performance. We each recognize and agree that there are changing standards in this area in terms of applicable law, competitors' actions, consumer expectations, obtaining a market advantage, available and affordable solutions, and other relevant considerations. In view of those and other considerations, as well as the long-term nature of this Agreement, you agree that we have the right to periodically set reasonable standards with respect to environmental, sustainability, and energy for the System through the Manual, and you agree to abide by those standards.

8.14 *Innovations.* You agree to disclose to us all ideas, concepts, methods, techniques and products conceived or developed by you, your affiliates, owners and/or employees during the term of this Agreement relating to the development and/or operation of the Restaurants. All such products, services, concepts, methods, techniques, and new information will be deemed to be our sole and exclusive property and works made-for-hire for us. You hereby grant to us (and agree to obtain from your affiliates, owners, employees, and/or contractors), a perpetual, non-exclusive, and worldwide right to use any such ideas, concepts, methods, techniques and products in all bar, food service, and entertainment businesses that we and/or our affiliates, franchisees and designees operate. We will have the right to use those ideas, concepts, methods, techniques, and/or products without making payment to you. You agree not to use or allow any other person or entity to use any such concept, method, technique or product without obtaining our prior written approval.

## **9 PROPRIETARY MARKS**

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

9.2 *Your Agreement.* With respect to your use of the Proprietary Marks, you agree that:

9.2.1 You will use only the Proprietary Marks that we have designated in writing, and you will use them only in the manner we have authorized and permitted in writing; and all items bearing the Proprietary Marks must bear the then-current logo.

9.2.2 You will use the Proprietary Marks only for the operation of the business franchised under this Agreement and only at the location authorized under this Agreement, or in franchisor-approved marketing for the business conducted at or from that location (subject to the other provisions of this Agreement).

9.2.3 Unless we otherwise direct you in writing to do so, you agree to operate and advertise the Franchised Business only under the name "Nathan's Famous" without prefix or suffix.

9.2.4 During the term of this Agreement and any renewal of this Agreement, you will identify yourself (in a manner reasonably acceptable to us) as the owner of the

Franchised Business in conjunction with any use of the Proprietary Marks, including, uses on invoices, order forms, receipts, and contracts, as well as the display of a notice in such content and form and at such conspicuous locations on the premises of the Franchised Business as we may designate in writing.

- 9.2.5 Your right to use the Proprietary Marks is limited to such uses as are authorized under this Agreement, and any unauthorized use thereof shall constitute an infringement of our rights.
- 9.2.6 You agree not to use the Proprietary Marks to incur any obligation or indebtedness on our behalf.
- 9.2.7 You agree that you will not use the Proprietary Marks: **(a)** as part of your corporate or other legal name; **(b)** as part of your identification in any e-mail address, domain name, or other electronic medium; and/or **(c)** in connection with any employment or H.R. documents (including employment applications, paychecks, pay stubs, and employment agreements).
- 9.2.8 You agree to execute any documents that we (or our affiliates) deem necessary to obtain protection for the Proprietary Marks or to maintain their continued validity and enforceability.
- 9.2.9 With respect to litigation involving the Proprietary Marks, the parties agree that:
  - 9.2.9.1 You agree to promptly notify us of any suspected infringement of the Proprietary Marks, any known challenge to the validity of the Proprietary Marks, or any known challenge to our ownership of, or your right to use, the Proprietary Marks licensed under this Agreement. You acknowledge and agree that we will have the sole right to direct and control any administrative proceeding or litigation involving the Proprietary Marks, including any settlement thereof. We will also have the sole right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Marks.
  - 9.2.9.2 If you used the Proprietary Marks in accordance with this Agreement, then we will defend you at our expense against any third party claim, suit, or demand involving the Proprietary Marks arising out of your use thereof. If you used the Proprietary Marks in a manner that does not comply with this Agreement, then we will still defend you, but at your expense, against such third party claims, suits, or demands.
  - 9.2.9.3 We agree to reimburse you for your out-of-pocket travel costs in doing such acts and things, except that you will bear the salary costs of your employees, and we will bear the costs of any judgment or settlement, unless such litigation is the result of your use of the Proprietary Marks in a manner that does not comply with this Agreement.
  - 9.2.9.4 To the extent that such litigation is the result of your use of the Proprietary Marks in a manner inconsistent with the terms of this Agreement, then you agree to reimburse us (upon our request, which may be periodic and/or upon the conclusion of the proceedings) for the cost of such litigation and/or upon our written request, pay our legal fees directly (your obligation under this Section includes but is not limited to reasonable attorneys' fees,

court costs, discovery costs, and all other related expenses, as well as the cost of any judgment or settlement).

9.2.9.5 If we undertake the defense or prosecution of any litigation or other similar proceeding relating to the Proprietary Marks, you agree to sign any and all documents, and do those acts and things that may, in our counsel's opinion, be necessary to carry out the defense or prosecution of that matter (including becoming a nominal party to any legal action).

9.3 *Your Acknowledgements.* You expressly understand and acknowledge that:

9.3.1 We own all right, title, and interest in and to the Proprietary Marks and the goodwill associated with and symbolized by them.

9.3.2 The Proprietary Marks are valid and serve to identify the System and those who are authorized to operate under the System.

9.3.3 Neither you nor any of your owners, principals, or other persons acting on your behalf will directly or indirectly contest the validity or our ownership of the Proprietary Marks, nor will you, directly or indirectly, seek to register the Proprietary Marks with any government agency (unless we have given you our express prior written consent to do so).

9.3.4 Your use of the Proprietary Marks does not give you any ownership interest or other interest in or to the Proprietary Marks, except the license granted by this Agreement.

9.3.5 Any and all goodwill arising from your use of the Proprietary Marks shall inure solely and exclusively to our benefit, and upon expiration or termination of this Agreement and the license granted as part of this Agreement, there will be no monetary amount assigned as attributable to any goodwill associated with your use of our System or of our Proprietary Marks.

9.3.6 The right and license of the Proprietary Marks that we have granted to you under this Agreement is non-exclusive, and we therefore have the right, among other things:

9.3.6.1 To use the Proprietary Marks ourselves in connection with selling Products and services;

9.3.6.2 To grant other licenses for the Proprietary Marks, in addition to licenses we may have already granted to existing franchisees; and

9.3.6.3 To develop and establish other systems using the same or similar Proprietary Marks, or any other proprietary marks, and to grant licenses or franchises for those other marks without giving you any rights to those other marks.

9.4 *Change to Marks.* We reserve the right to substitute different Proprietary Marks for use in identifying the System and the businesses operating as part of the System if our currently owned Proprietary Marks no longer can be used, or if we determine, exercising our right to do so, that substitution of different Proprietary Marks will be beneficial to the System. In such circumstances, your right to use the substituted proprietary marks shall be governed by (and pursuant to) the terms of this Agreement.

## 10 CONFIDENTIAL OPERATING MANUALS

- 10.1 *You Agree to Abide by the Manual.* In order to protect our reputation and goodwill and to maintain high standards of operation under our Proprietary Marks, you agree to conduct your business in accordance with the written instructions that we provide, including the Manual. We will lend to you (or permit you to have access to) one (1) copy of our Manual, only for the term of this Agreement, and only for your use in connection with operating the Franchised Business during the term of this Agreement.
- 10.2 *Format of the Manual.* We will have the right to provide the Manual in any format we determine is appropriate (including paper format and/or by making some or all of the Manual available to you in electronic form, such as through an internet website or an extranet). If at any time we choose to provide the Manual electronically, you agree to immediately return to us any and all physical copies of the Manual that we have previously provided to you.
- 10.3 *We Own the Manual.* The Manual shall at all times remain our sole property and you agree to promptly return the Manual when this Agreement expires or if it is terminated.
- 10.4 *Confidentiality and Use of the Manual.* The Manual contains our proprietary information and you agree to keep the Manual confidential both during the term of this Agreement and after this Agreement expires and/or is terminated. You agree that, at all times, you will insure that your copy of the Manual will be available at the Franchised Business premises in a current and up-to-date manner. You agree not to make any unauthorized use, disclosure or duplication of any portion of the Manual. Whenever the Manual is not in use by authorized personnel, you agree to maintain secure access to the Manual at the premises of the Franchised Business, and you agree to grant only authorized personnel (as defined in the Manual) with access to the security protocols for the Manual. You agree to never make any unauthorized use, disclosure, and/or duplication the Manual in whole or in part.
- 10.5 *You Agree to Treat Manual as Confidential.* You agree that at all times, you will treat the Manual, any other manuals that we create (or approve) for use in the operation of the Franchised Business, and the information contained in those materials, as confidential, and you also agree to use your best efforts to maintain such information as secret and confidential. You agree that you will never copy, duplicate, record, or otherwise reproduce those materials, in whole or in part, nor will you otherwise make those materials available to any unauthorized person.
- 10.6 *Which Copy of the Manual Controls.* You agree to keep your copy of the Manual only at the Franchised Business (and as provided in Section 10.4 above) and also to insure that the Manual are kept current and up to date. You also agree that if there is any dispute as to the contents of the Manual, the terms of the master copy of the Manual that we maintain in our home office will be controlling. Access to any electronic version of the Manual shall also be subject to our reasonable requirements with respect to security and other matters, as described in Section 14 below.
- 10.7 *Revisions to the Manual.* We have the right to revise the contents of the Manual whenever we deem it appropriate to do so, and you agree to make corresponding revisions to your copy of the Manual and to comply with each new or changed standard.
- 10.8 *Modifications to the System.* You recognize and agree that we may periodically change or modify the System and you agree to accept and use for the purpose of this Agreement any such change in the System (which may include, among other things, new or modified trade names, service marks, trademarks or copyrighted materials, new products, new equipment

or new techniques, as if they were part of this Agreement at the time when you and we signed this Agreement; provided the financial burden placed upon you is not substantial). You agree to make such expenditures and such changes or modifications as we may reasonably require pursuant to this Section and otherwise in this Agreement.

## **11 CONFIDENTIAL INFORMATION**

### **11.1 Confidentiality.**

11.1.1 You agree that you will not, during the term of this Agreement or at any time thereafter, communicate, divulge, or use (for yourself and/or for the benefit of any other person and/or entity) any Confidential Information that may be communicated to you or of which you may be apprised by virtue of your operation under the terms of this Agreement. You agree that you will divulge our Confidential Information only to those of your employees as must have access to it in order to operate the Franchised Business.

11.1.2 Any and all information, knowledge, know-how, and techniques that we designate as confidential shall be deemed Confidential Information for purposes of this Agreement, except information that you can demonstrate came to your attention before disclosure of that information by us; or which, at or after the time of our disclosure to you, had become or later becomes a part of the public domain, through publication or communication by another party that has the right to publish or communicate that information.

11.1.3 Any employee who may have access to any Confidential Information regarding the Franchised Business shall execute a covenant that s/he will maintain the confidentiality of information they receive in connection with their association with you. Such covenants shall be on a form that we provide, which form shall, among other things, designate us as a third party beneficiary of such covenants with the independent right to enforce them.

11.1.4 As used in this Agreement, the term "**Confidential Information**" includes, without limitation, our business concepts and plans, recipes, food preparation methods, equipment, operating techniques, marketing methods, processes, formulae, manufacturing and vendor information, results of operations and quality control information, financial information, demographic and trade area information, prospective site locations, market penetration techniques, plans, or schedules, the Manuals, customer profiles, preferences, or statistics, menu breakdowns, itemized costs, franchisee composition, territories, and development plans, and all related trade secrets or other confidential or proprietary information treated as such by us, whether by course of conduct, by letter or report, or by the use of any appropriate proprietary stamp or legend designating such information or item to be confidential or proprietary, by any communication to such effect made prior to or at the time any Confidential Information is disclosed to you.

11.2 *Consequences of Breach.* You acknowledge and agree that any failure to comply with the requirements of this Section 11 will cause us irreparable injury, and you agree to pay all costs (including, without limitation, reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) that we incur in obtaining specific performance of, or an injunction against violation of, the requirements of this Section 11.

## 12 ACCOUNTING, FINANCIAL AND OTHER RECORDS, AND INSPECTIONS

### 12.1 *Accounting Records and Sales Reports.*

- 12.1.1 With respect to the operation and financial condition of the Franchised Business, we will have the right to designate, and you agree to adopt, the fiscal year and interim fiscal periods that we decide are appropriate for the System.
- 12.1.2 With respect to the Franchised Business, you agree to maintain for at least seven (7) years during (as well as after) the term of this Agreement (and also after any termination and/or transfer), full, complete, and accurate books, records, and accounts prepared in accordance with generally accepted accounting principles and in the form and manner we have prescribed periodically in the Manual or otherwise in writing, including: **(a)** daily cash reports; **(b)** cash receipts journal and general ledger; **(c)** cash disbursements and weekly payroll journal and schedule; **(d)** monthly bank statements, daily deposit slips and cancelled checks; **(e)** all tax returns; **(f)** supplier's invoices (paid and unpaid); **(g)** dated daily and weekly cash register journals and POS reports in accordance with our standards; **(h)** semi-annual fiscal period balance sheets and fiscal period profit and loss statements; **(i)** operational schedules and weekly inventory records; **(j)** records of promotion and coupon redemption; and **(k)** such other records that we may periodically and reasonably request.
- 12.1.3 We have the right to specify a common chart of accounts, and, if we do so, you agree to use that chart of accounts (and require your bookkeeper and accountant to do so) in preparing and submitting your financial statements to us.
- 12.1.4 You shall submit to us weekly sales reports.

12.1.4.1 For this purpose, the parties agree that a “**week**” is the seven-day period starting at 12:01 am Monday and ending two minutes after 11:59 pm Sunday (local time at your Franchised Business).

12.1.4.2 Each week, you agree to submit to us, in a form we specify, a sales report for the immediately preceding week. You agree to submit the report to us by whatever method that we reasonably require (which may be electronically) for our receipt no later than the close of business on Tuesday. You agree that if do not submit those reports to us in a timely manner, we will have the right to charge you for the costs that we incur in auditing your records.

## 12.2 *Financial Statements.*

12.2.1 You agree to provide us, at your expense, and in a format that we reasonably specify, a complete annual financial statement prepared on a review basis by an independent certified public accountant (as to whom we do not have a reasonable objection) within ninety (90) days after the end of each fiscal year of the Franchised Business during the term of this Agreement. Your financial statement must be prepared according to generally accepted accounting principles, include a fiscal year-end balance sheet, an income statement of the Franchised Business for that fiscal year reflecting all year-end adjustments, and a statement of changes in your cash flow reflecting the results of operations of the Franchised Business during the most recently completed fiscal year.

12.2.2 In addition, no later than the twentieth (20<sup>th</sup>) day after each month (or, if we elect, other periodic time period) during the term of this Agreement after the opening of the Franchised Business, you will submit to us, in a format acceptable to us (or, at our election, in a form that we have specified): **(a)** a fiscal period and fiscal year-to-date profit and loss statement and a quarterly balance sheet (which may be unaudited) for the Franchised Business; **(b)** reports of those income and expense items of the Franchised Business that we periodically specify for use in any revenue, earnings, and/or cost summary we choose to furnish to prospective franchisees (provided that we will not identify to prospective franchisees the specific financial results of the Franchised Business); and **(c)** copies of all state sales tax returns for the Franchised Business. You agree to certify as correct and true all reports and information that you submit to us pursuant to this Section 12.2.

12.3 *Additional Information.* You also agree to submit to us (in addition to the sales reports required pursuant to Section 12.1.4 above), for review or auditing, such other forms, reports, records, information, and data as and when we may reasonably designate, in the form and format, and at the times and places as we may reasonably require, upon request and as specified periodically in the Manual or otherwise in writing, including: **(a)** information in electronic format; **(b)** restated in accordance with our financial reporting periods; **(c)** consistent with our then-current financial reporting periods and accounting practices and standards; and/or **(d)** as necessary so that we can comply with reporting obligations imposed upon us by tax authorities with jurisdiction over the Franchised Business and/or our company. The reporting requirements of this Section 12.3 shall be in addition to, and not in lieu of, the electronic reporting required under Section 14 below.

12.4 *PCI Compliance and Credit Cards.* With respect to your acceptance and processing of customer payments by credit and debit cards, you agree to do all of the following:

- 12.4.1 You agree to maintain, at all times, credit-card relationships with the credit- and debit-card issuers or sponsors, check or credit verification services, financial-center services, merchant service providers, and electronic-fund-transfer systems (together, "**Payment Vendors**") that we may periodically designate as mandatory. The term "Payment Vendors" includes, among other things, companies that provide services for electronic payment, including "Apple Pay", "Google Wallet", as well as other vendors' mobile and other payment applications). The obligations specified in this Section include your agreement to pay the applicable charges imposed by the Payment Vendors for participation in, and transactions conducted through, those methods.
- 12.4.2 You agree not to use any Payment Vendor for which we have not given you our prior written approval or as to which we have revoked our earlier approval.
- 12.4.3 We have the right to modify our requirements and designate additional approved or required methods of payment and vendors for processing such payments, and to revoke our approval of any service provider.
- 12.4.4 You agree to comply with all of our policies regarding acceptance of payment by credit and/or debit cards, including for example minimum purchase requirements for a customer's use of a credit card (we may set these requirements in the Manual).
- 12.4.5 In addition to the other requirements of this Agreement to provide us with various information and reports, you agree to provide us with the information that we reasonably require concerning your compliance with data and cybersecurity requirements.
- 12.4.6 You agree to comply with our requirements concerning data collection and protection, as specified in Section 14.3 below.
- 12.4.7 You agree to comply with the then-current Payment Card Industry Data Security Standards as those standards may be revised and modified by the PCI Security Standards Council, LLC (see [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org)), or any successor organization or standards that we may reasonably specify. Among other things, you agree to implement the enhancements, security requirements, and other standards that the PCI Security Standards Council (or its successor) requires of a merchant that accepts payment by credit and/or debit cards.
- 12.5 *Gift Cards and Incentive Programs.* You agree to offer for sale, and to honor for purchases by customers, all gift cards and other incentive or convenience programs that we may periodically institute (including loyalty programs that we or a third party vendor operate, as well as mobile payment applications); and you agree to do all of those things in compliance with our standards and procedures for such programs. For this purpose, you agree to purchase the software, hardware, and other items needed to sell and process gift cards, and to contract with the supplier of gift cards and gift card processing services, as we may specify in writing in the Manuals or otherwise. You must also pay such monthly and per-swipe transaction fees as may be required by the vendors of the gift card system. You agree not to sell, issue, or redeem coupons, gift certificates and gift cards other than gift cards that we have approved in writing.
- 12.6 *Our Right to Inspect Your Books and Records.* We have the right at all reasonable times to examine, copy, and/or personally review or audit (at our expense) all of your sales receipts, books, records, and sales and income tax returns in person or through electronic access (at

our option). We will also have the right, at any time, to have an independent audit made of your books and records. If an inspection should reveal that you have understated any payments in any report to us, then this shall constitute a default under this Agreement, and you agree to immediately pay us the amount understated upon demand, in addition to interest from the date such amount was due until paid, at the rate of one and one-half percent (1.5%) per month (but not more than the maximum rate permitted by law, if any). If we conduct an inspection because you did not timely provide sales reports to us, or if an inspection discloses that you understated your sales in any report to us (and/or underpaid your royalties), by two percent (2%) or more, or if you did not maintain and/or provide us with access to your records, then you agree (in addition to paying us the overdue amount and interest) to reimburse us for any and all costs and expenses we incur in connected with the inspection (including travel, lodging and wages expenses, and reasonable accounting and legal costs). These remedies shall be in addition to any other remedies we may have. We may exercise our rights under this Section 12 directly or by engaging outside professional advisors (for example, a CPA) to represent us.

- 12.7 *Operational Inspections.* In addition to the provisions of Section 12.6 above, you also grant to us and our agents the right to enter upon the Franchised Business premises at any *reasonable* time for the purpose of conducting inspections, for among other purposes, preserving the validity of the Proprietary Marks, and verifying your compliance with this Agreement and the policies and procedures outlined in the Manual. You agree to cooperate with our representatives in such inspections by rendering such assistance as they may reasonably request; and, upon notice from us or from our agents (and without limiting our other rights under this Agreement), you agree to take such steps as may be necessary to correct immediately any deficiencies detected during any such inspection. You further agree to pay us our then-current per diem fee for our representative(s) and to reimburse us for our reasonable travel expenses if additional inspections at the Franchised Business are required when a violation has occurred and you have not corrected the violation, or if you did not provide us with your records or access to your records upon reasonable request that is permitted under this Agreement.

## 13 **MARKETING**

- 13.1 *Marketing Development Fund Contribution.* For each Month during the term of this Agreement, you agree to contribute an amount equal to two and one-half percent (2.5%) of your Franchised Business' Gross Sales during the preceding Month (the "**Marketing Development Fund Contribution**"). You agree to pay the Marketing Development Fund Contribution in the manner and at the times required under Section 4.4 above (and as otherwise provided in this Section 13).

### 13.2 *Allocation and Collection.*

13.2.1 We have the right to allocate your Marketing Development Fund Contribution in the proportion that we designate among the Marketing Development Fund and any Regional Fund established for your area, as provided in Section 13.4 below (but we are not required to establish a Regional Fund for your area).

13.2.2 We have the right to periodically make changes to the allocation of the Marketing Development Fund Contribution as specified in Section 13.2.1 among the Marketing Development Fund and/or a Regional Fund, by giving you written notice of the change, and those changes will take effect at the end of that month.

13.2.3 No part of the Marketing Development Fund Contribution (whether deposited in Marketing Development Fund or a Regional Fund) shall be subject to refund or repayment under any circumstances.

13.3 *Marketing Development Fund.* We (or our designee) will maintain and administer the Marketing Development Fund as follows:

13.3.1 We or our designee shall have the right to direct all marketing programs, as well as all aspects thereof, including, without limitation, the concepts, materials, and media used in such programs and the placement and allocation thereof. You acknowledge and agree that the Marketing Development Fund is intended to maximize general public recognition, acceptance, and use of the System; and that we and our designee are not obligated, in administering the Marketing Development Fund, to make expenditures for you that are equivalent or proportionate to your contribution, or to ensure that any particular franchisee benefits directly or pro rata from expenditures by the Marketing Development Fund.

13.3.2 The Marketing Development Fund, all contributions to that fund, and any of that fund's earnings, shall be used exclusively (except as otherwise provided in this Section 13.3) to meet any and all costs of maintaining, administering, directing, conducting, creating and/or otherwise preparing advertising, marketing, public relations and/or promotional programs and materials, and any other activities that we believe will enhance the image of the System (including the costs of preparing and conducting: marketing and advertising campaigns in any medium, whether digital, print, direct-mail or other; marketing surveys and other public relations activities; employing marketing personnel, the costs of retaining advertising and/or public relations agencies; purchasing promotional items, conducting and administering visual merchandising, point of sale, and other merchandising programs; conducting and administering visual merchandising, point of sale, and other merchandising programs; engaging individuals as spokespersons and celebrity endorsers; purchasing creative content for local sales materials; reviewing locally-produced ads; preparing, purchasing and distributing door hangers, free-standing inserts, coupons, brochures, and trademarked apparel; market research; conducting sponsorships, sweepstakes and competitions; engaging mystery shoppers for Restaurants and their competitors; and providing promotional and other marketing materials and services to the Restaurants operated under the System). The Marketing Development Fund may also be used to provide rebates or reimbursements to franchisees for local expenditures on products, services, or improvements, so long as we have given our prior written approval, which products, services, or improvements; and we will have the right to determine what methods to use in order to promote general public awareness of, and favorable support for, the System.

13.3.3 You agree to make your Marketing Development Fund Contribution to the Marketing Development Fund in the manner specified in Section 4.4 above. We will maintain all sums in the Marketing Development Fund in an account separate from our other monies. We will have the right to charge the Marketing Development Fund for the reasonable administrative costs and overhead that we incur in activities reasonably related to the direction and implementation of the Marketing Development Fund and marketing programs for franchisees and the System (including costs of personnel for creating and implementing, advertising, merchandising, promotional and marketing programs). The Marketing Development Fund and its earnings shall not otherwise inure to our benefit. We or our designee will maintain separate bookkeeping accounts for the Marketing Development Fund.

- 13.3.4 No part of your Marketing Development Fund Contribution shall be deemed an asset of ours, nor a trust, and we do not assume any fiduciary obligation to you for maintaining, directing or administering said funds or for any other reason. We will prepare a statement of the operations of the Marketing Fund and any Regional Funds as shown on our books, annually, and make that report available to you.
- 13.3.5 Although the Marketing Development Fund is intended to be of perpetual duration, we maintain the right to terminate the Marketing Development Fund. The Marketing Development Fund shall not be terminated, however, until all monies in the Marketing Development Fund have been expended for marketing and/or promotional purposes.
- 13.4 *Regional Fund.* We will have the right to designate any geographical area for purposes of establishing a regional cooperative market marketing fund ("**Regional Fund**"). If a Regional Fund for the geographic area in which the Franchised Business is located has been established at the time you start to operate under this Agreement, you will immediately become a member of such Regional Fund. If a Regional Fund for the geographic area in which the Franchised Business is located is established during the term of this Agreement, you will become a member of that Regional Fund within thirty (30) days after the date on which the Regional Fund commences operation. (However, you will not be required under any circumstances to be a member of more than one Regional Fund.) The following provisions shall apply to each Regional Fund:
- 13.4.1 Each Regional Fund shall be organized (including bylaws and other organic documents) and governed in a form and manner, and shall commence operations on a date, which we must have approved in advance in writing. The activities carried on by each Regional Fund shall be decided by a majority vote of its members (unless we specify otherwise in writing). Any Restaurants that we operate in the region shall have the same voting rights as Restaurants owned by franchisees. The owner of each Franchised Business shall be entitled to cast one (1) vote for each Franchised Business owned.
- 13.4.2 Each Regional Fund shall be organized for the exclusive purpose of administering regional marketing programs and developing, subject to our approval, standardized promotional materials for use by the members in local store marketing.
- 13.4.3 No advertising, marketing, or promotional plans or materials may be used by a Regional Fund or furnished to its members without our prior written approval as specified in Section 13.7 below.
- 13.4.4 You agree to make your required contribution to a Regional Fund pursuant to the allocation that we specify, as described in Section 13.2 above.
- 13.4.5 Although once established, each Regional Fund is intended to be of perpetual duration, we maintain the right to terminate any Regional Fund. A Regional Fund shall not be terminated, however, until all monies in that Regional Fund have been expended for marketing and/or promotional purposes.
- 13.5 *Standards.* All of your local store marketing must: **(a)** be in the media, and of the type and format, that we may approve; **(b)** be conducted in a dignified manner; and **(c)** conform to the standards and requirements that we may specify. You agree not to use any advertising, marketing materials, and/or promotional plans unless and until you have received our prior written approval, as specified in Section 13.7 below.

- 13.6 *Materials Available for Purchase.* We will make available to you periodically, at your expense, marketing plans and promotional materials, including newspaper mats, coupons, merchandising materials, sales aids, point-of-purchase materials, special promotions, direct mail materials, community relations programs, and similar marketing and promotional materials for use in local store marketing.
- 13.7 *Our Review and Right to Approve All Proposed Marketing.* For all proposed advertising, marketing, and promotional plans, you (or the Regional Fund, where applicable) shall submit to us samples of such plans and materials (by means described in Section 24 below), for our review and prior written approval. If you (or the Regional Fund) have not received our written approval within fourteen (14) days after we have received those proposed samples or materials, then we will be deemed to have disapproved them. You acknowledge and agree that any and all copyright in and to advertising, marketing materials, and promotional plans developed by or on behalf of you will be our sole property, and you agree to sign such documents (and, if necessary, require your employees and independent contractors to sign such documents) that we deem reasonably necessary to give effect to this provision.
- 13.8 *Additional Marketing Expenditure Encouraged.* You understand and acknowledge that the required contributions and expenditures are minimum requirements only, and that you may (and we encourage you to) spend additional funds for local advertising and promotion, which will focus on disseminating marketing directly related to your Franchised Business.
- 13.9 *Local Advertising and Promotion.* As used in this Agreement, the term “**local advertising and promotion**” shall consist only of the direct costs of purchasing and producing marketing materials (including, camera-ready advertising and point of sale materials), media (space or time), and those direct out-of-pocket expenses related to costs of marketing and sales promotion that you spend in your local market or area, advertising agency fees and expenses, postage, shipping, telephone, and photocopying; however, the parties expressly agree that local store marketing shall not include costs or expenses that you incur or that are spent on your behalf in connection with any of the following:
- 13.9.1 Salaries and expenses of your employees, including salaries or expenses for attendance at marketing meetings or activities, or incentives provided or offered to such employees, including discount coupons;
  - 13.9.2 Charitable, political, or other contributions or donations;
  - 13.9.3 The value of discounts provided to consumers; and/or
  - 13.9.4 The cost of food, beverage, and merchandise items.
- 13.10 *Rebates.* You acknowledge and agree that periodic rebates, giveaways and other promotions and programs will, if and when we adopt them, be an integral part of the System. Accordingly, you agree to honor and participate (at your expense) in reasonable rebates, giveaways, marketing programs, and other promotions that we establish and/or that other franchisees sponsor, so long as they do not violate regulations and laws of appropriate governmental authorities.
- 13.11 *Considerations As to Charitable Efforts.* You acknowledge and agree that certain associations between you and/or the Franchised Business and/or the Proprietary Marks and/or the System, on the one hand, and certain political, religious, cultural or other types of groups, organizations, causes, or activities, on the other, however well-intentioned and/or legal, may create an unwelcome, unfair, or unpopular association with, and/or an adverse

effect on, our reputation and/or the good will associated with the Proprietary Marks. Accordingly, you agree that you will not, without our prior written consent, take any actions that are, or which may be perceived by the public to be, taken in the name of, in connection or association with you, the Proprietary Marks, the Franchised Business, us, and/or the System involving the donation of any money, products, services, goods, or other items to, any charitable, political or religious organization, group, or activity.

## 14 TECHNOLOGY

### 14.1 *Computer Systems and Required Software.* With respect to computer systems and required software:

14.1.1 We have the right to specify or require that certain brands, types, makes, and/or models of communications, computer systems, and hardware to be used by, between, or among Restaurants, and in accordance with our standards, including: **(a)** back office and point of sale systems, data, audio, video (including managed video security surveillance), telephone, voice messaging, retrieval, and transmission systems for use at Restaurants, between or among Restaurants, and between and among the Franchised Business, and you, and us; **(b)** POS Systems (defined in Section 14.7 below); **(c)** physical, electronic, and other security systems and measures; **(d)** printers and other peripheral devices (including digital menu board systems); **(e)** archival back-up systems; **(f)** internet access mode (e.g., form of telecommunications connection) and speed; **(g)** technology used to enhance and evaluate the customer experience; and **(h)** front-of-the-house WiFi and other connectivity service for customers (collectively, all of the above are referred to as the **“Computer System”**).

14.1.2 We will have the right, but not the obligation, to develop or have developed for us, or to designate: **(a)** computer software programs and accounting system software that you must use in connection with the Computer System (including applications, technology platforms, and other such solutions) (**“Required Software”**), which you agree to install; **(b)** updates, supplements, modifications, or enhancements to the Required Software, which you agree to install; **(c)** the media upon which you must record data; and **(d)** the database file structure of your Computer System. If we require you to use any or all of the above items, then you agree that you will do so.

14.1.3 You agree to install and use the Computer System and Required Software at your expense. You agree to pay us or third party vendors, as the case may be, initial and ongoing fees in order to install, maintain, and continue to use the Required Software, hardware, and other elements of the Computer System.

14.1.4 You agree to implement and periodically make upgrades and other changes at your expense to the Computer System and Required Software as we may reasonably request in writing (collectively, **“Computer Upgrades”**).

14.1.5 You agree to comply with all specifications that we issue with respect to the Computer System and the Required Software, and with respect to Computer Upgrades, at your expense. You agree to afford us unimpeded access to your Computer System and Required Software, including all information and data maintained thereon, in the manner, form, and at the times that we request.

14.1.6 You also agree that we will have the right to approve or disapprove your use of any other technology solutions (including beacons and other tracking methodologies)

14.2 *Data.*

14.2.1 You agree that all data that you collect, create, provide, or otherwise develop on your Computer System (whether or not uploaded to our system from your system and/or downloaded from your system to our system) is and will be owned exclusively by us, and that we will have the right to access, download, and use that data in any manner that we deem appropriate without compensation to you.

14.2.2 You agree that all other data that you create or collect in connection with the System, and in connection with your operation of the Franchised Business (including customer and transaction data), is and will be owned exclusively by us during the term of, and after termination or expiration of, this Agreement.

14.2.3 In order to operate your Franchised Business under this Agreement, we hereby license use of such data back to you, at no additional cost, solely for the term of this Agreement and for your use in connection with operating the Franchised Business. You acknowledge and agree that except for the right to use the data under this clause, you will not develop or have any ownership rights in or to the data.

14.2.4 You agree to transfer to us all data (in the digital machine-readable format that we specify, and/or printed copies, and/or originals) promptly upon our request when made, whether periodically during the term of this Agreement, upon termination and/or expiration of this Agreement, any transfer of an interest in you, and/or a transfer of the Franchised Business.

14.3 *Data Requirements and Usage.* We may periodically specify in the Manual or otherwise in writing the information that you agree to collect and maintain on the Computer System installed at the Franchised Business, and you agree to provide to us such reports as we may reasonably request from the data so collected and maintained. All data pertaining to or derived from the Franchised Business (including, without limitation, data pertaining to or otherwise about Franchised Business customers) is and shall be our exclusive property, and we hereby grant a royalty-free non-exclusive license to you to use such data during the term of this Agreement. In addition:

14.3.1 You agree to abide by all applicable laws pertaining to the privacy of consumer, employee, and transactional information ("**Privacy Laws**").

14.3.2 You agree to comply with our standards and policies pertaining to the privacy of consumer, employee, and transactional information. If there is a conflict between our standards and policies and Privacy Laws, you agree to: **(a)** comply with the requirements of Privacy Laws; **(b)** immediately give us written notice of such conflict; and **(c)** promptly and fully cooperate with us and our counsel in determining the most effective way, if any, to meet our standards and policies pertaining to privacy within the bounds of Privacy Laws.

14.3.3 You agree to not publish, disseminate, implement, revise, or rescind a data privacy policy without our prior written consent as to such policy.

14.3.4 You agree to implement at all times appropriate physical and electronic security as is necessary to secure your Computer System, including complex passwords that you change periodically, and to comply any standards and policies that we may issue (without obligation to do so) in this regard.

- 14.4 Extranet. You agree to comply with our requirements (as set forth in the Manual or otherwise in writing) with respect to establishing and maintaining telecommunications connections between your Computer System and our Extranet and/or such other computer systems as we may reasonably require. The term “**Extranet**” means a private network based upon Internet protocols that will allow users inside and outside of our headquarters to access certain parts of our computer network via the Internet. We may establish an Extranet (but are not required to do so or to maintain an Extranet). If we establish an Extranet, then you agree to comply with our requirements (as set forth in the Manual or otherwise in writing) with respect to connecting to the Extranet, and utilizing the Extranet in connection with the operation of your Franchised Business. The Extranet may include, without limitation, the Manual, training and other assistance materials, and management reporting solutions (both upstream and downstream, as we may direct). You agree to purchase and maintain such computer software and hardware (including telecommunications capacity) as may be required to connect to and utilize the Extranet. You agree to execute and deliver to us such documents as we may deem reasonably necessary to permit you to access the Extranet.
- 14.5 *Online Ordering System.* You agree to participate in our online ordering system, on such terms and conditions that we may specify in the Manual, and to pay the fees for such online ordering system that we and/or our vendor reasonably specify.
- 14.6 *No Separate Online Sites.* Unless we have otherwise approved in writing, you agree to neither establish nor permit any other party to establish an Online Site relating in any manner whatsoever to the Franchised Business or referring to the Proprietary Marks. We will have the right, but not the obligation, to provide one or more references or webpage(s), as we may periodically designate, within our Online Site. The term “**Online Site**” means one or more related documents, designs, pages, or other communications that can be accessed through electronic means, including, the Internet, World Wide Web, webpages, microsites, social networking sites (e.g., Facebook, Twitter, LinkedIn, You Tube, Google Plus, Snapchat, Pinterest, Instagram, etc.), blogs, vlogs, applications to be used on mobile devices (e.g., iOS or Android apps), and other applications, etc. (whether they are now in existence or developed at some point in the future). However, if we give you our prior written consent to have a separate Online Site (which we are not obligated to approve), then each of the following provisions shall apply:
- 14.6.1 You agree that you will not establish or use any Online Site without our prior written approval.
- 14.6.2 Any Online site owned or maintained by or for your benefit will be deemed “marketing” under this Agreement, and will be subject to (among other things) our approval under Section 13.7 above.
- 14.6.3 Before establishing any Online Site, you agree to submit to us, for our prior written approval, a sample of the proposed Online Site domain name, format, visible content (including, without limitation, proposed screen shots, links, and other content), and non-visible content (including, without limitation, meta tags, cookies, and other electronic tags) in the form and manner we may reasonably require.
- 14.6.4 You may not use or modify such Online Site without our prior written approval as to such proposed use or modification.
- 14.6.5 In addition to any other applicable requirements, you agree to comply with the standards and specifications for Online Sites that we may periodically prescribe in

the Manual or otherwise in writing (including, requirements pertaining to designating us as the sole administrator or co-administrator of the Online Site).

- 14.6.6 If we require, you agree to establish such hyperlinks to our Online Site and others as we may request in writing.
- 14.6.7 If we require you to do so, you agree to make weekly or other periodic updates to our Online Site to reflect information regarding specials and other promotions at your Franchised Business.
- 14.6.8 We may require you to make us the sole administrator (or co-administrator) of any social networking pages that you maintain or that are maintained on your behalf, and we will have the right (but not the obligation) to exercise all of the rights and privileges that an administrator may exercise.
- 14.7 *POS Systems.* You agree to record all sales on computer-based point of sale systems we approve or on such other types of cash registers as we may designate in the Manual or otherwise in writing ("**POS Systems**"), which shall be deemed part of your Computer System. You agree to utilize POS Systems that are fully compatible with any program, software program, and/or system which we, in our discretion, may employ (including mobile or remote device, application and payment systems), and you agree to record all Gross Revenues and all sales information on such equipment. We may designate one or more third party suppliers or servicers to provide installation, maintenance, and/or support for the POS System, and you agree to enter into and maintain such agreements (including making such payments) as we or the third party suppliers and/or servicers require in connection with the installation, maintenance, and/or support for the POS System. The POS System is part of the Computer System. You agree to at all times maintain a continuous high-speed cabled (not wireless) connection to the Internet to send and receive POS data to us.
- 14.8 *Electronic Identifiers; E-Mail.*
- 14.8.1 You agree not to use the Proprietary Marks or any abbreviation or other name associated with us and/or the System as part of any e-mail address, domain name, social network or social media name or address, and/or any other identification of you and/or your business in any electronic medium.
- 14.8.2 You agree not to transmit or cause any other party to transmit advertisements or solicitations by e-mail, text message, and/or other electronic media without obtaining our prior written consent as to: **(a)** the content of such electronic advertisements or solicitations; and **(b)** your plan for transmitting such advertisements. In addition to any other provision of this Agreement, you will be solely responsible for compliance with any laws pertaining to sending electronic communication including, the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (known as the "CAN-SPAM Act of 2003") and the Federal Telephone Consumer Protection Act. (As used in this Agreement, the term "**electronic communication**" includes all methods for sending communication electronically, whether or not currently invented or used, including e-mails, text messages, internet-based communication, and faxes.)
- 14.9 *Outsourcing.* You agree not to hire third party or outside vendors to perform any services or obligations in connection with the Computer System, Required Software, and/or any other of your obligations, without our prior written approval. Our consideration of any proposed outsourcing vendors may be conditioned upon, among other things, such third party or

outside vendor's entry into a confidentiality agreement with us and you in a form that we may reasonably provide and the third party or outside vendor's agreement to pay for all initial and ongoing costs related to interfaces with our computer systems. The provisions of this section are in addition to and not instead of any other provision of this Agreement. You agree not to install (and/or remove) any software or firmware from the Computer System without our prior written consent.

- 14.10 *Telephone Service.* You agree to use the telephone service for the Store that we may require, which may be one or more centralized vendors that we designate for that purpose. You agree that we may designate, and own, the telephone numbers for your Franchised Business.
- 14.11 *Changes.* You acknowledge and agree that changes to technology are dynamic and not predictable within the term of this Agreement. In order to provide for inevitable but unpredictable changes to technological needs and opportunities, you agree that we will have the right to establish, in writing, reasonable new standards for the implementation of technology in the System; and you agree to abide by those reasonable new standards we establish as this Section 14 were periodically revised by us for that purpose.
- 14.12 Electronic Communication – Including E-Mail, Fax, and Texts. You acknowledge and agree that exchanging information with us by electronic communication methods is an important way to enable quick, effective, and efficient communication, and that we are entitled to rely upon your use of electronic communications as part of the economic bargain underlying this Agreement. To facilitate the use of electronic communication to exchange information, you authorize the transmission of those electronic communications by us and our employees, vendors, and affiliates (on matters pertaining to the business contemplated under this Agreement) (together, "**Official Senders**") to you during the term of this Agreement.
- 14.12.1 In order to implement the terms of this Section 14.12, you agree that: **(a)** Official Senders are authorized to send electronic communications to those of your employees as you may occasionally designate for the purpose of communicating with us and others; **(b)** you will cause your officers, directors, members, managers, and employees (as a condition of their employment or position with you) to give their consent (in an electronic communication or in a pen-and-paper writing, as we may reasonably require) to Official Senders' transmission of electronic communication to those persons, and that such persons shall not opt-out, or otherwise ask to no longer receive electronic communication, from Official Senders during the time that such person works for or is affiliated with you; and **(c)** you will not opt-out, or otherwise ask to no longer receive electronic communications, from Official Senders during the term of this Agreement.
- 14.12.2 The consent given in this Section 14.12 shall not apply to the provision of notices by either party under this Agreement using e-mail unless the parties otherwise agree in a pen-and-paper writing signed by both parties.
- 14.12.3 We may permit or require you to use a specific e-mail address (or address using another communications method) (e.g., one that will contain a Top Level Domain Name that we designate, such as jane.smith@nathans.com or john.jones@nathansfranchisee.com) (the "**Business E-mail Address**") in connection with the operation of the Franchised Business, under the standards that we set for use of that Business E-mail Address. You will be required to sign the form E-Mail authorization letter that we may specify for this purpose. If we assign you a

Business E-mail Address, then you agree that you (and your employees) will use only that e-mail account for all business associated with your Franchised Business.

## 15 INSURANCE

15.1 *Required Insurance Coverage.* Before starting any activities or operations under this Agreement, you agree to procure and maintain in full force and effect during the term of this Agreement (and for such period thereafter as is necessary to provide the coverages required under this Agreement for events having occurred during the Term of this Agreement), at your expense, at least the following insurance policy or policies in connection with the Franchised Business or other facilities on premises, or by reason of the construction, operation, or occupancy of the Franchised Business or other facilities on premises. Such policy or policies shall be written by an insurance company or companies we have approved, having at all times a rating of at least "A XIII" in the most recent Key Rating Guide published by the A.M. Best Company (or another rating that we reasonably designate if A.M. Best Company no longer publishes the Key Rating Guide) and licensed and admitted to do business in the state in which the Franchised Business is located, and shall include, at a minimum (except that we may reasonably specify additional coverages and higher policy limits for all franchisees periodically in the Manual or otherwise in writing to reflect inflation, identification of new risks, changes in the law or standards of liability, higher damage awards and other relevant changes in circumstances), the following:

- 15.1.1 Commercial general liability insurance, including us, and any entity in which we have an interest and any entity affiliated with us and each of our members, managers, shareholders, directors, officers, members, managers, partners, employees, servants and agents as additional insureds protecting against any and all claims for personal, bodily and/or property injury occurring in or about the Restaurant and protecting against assumed or contractual liability under this Agreement with respect to the Restaurant and your operations, with such policy to be placed with minimum limits of Two Million Dollars (\$2,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) general aggregate per location; provided, however, that at our election, such minimum limits may be periodically increased.
- 15.1.2 Comprehensive automobile liability insurance, including owned, non-owned and hired car coverage providing third party liability insurance, covering all licensed vehicles owned or operated by or on behalf of you, with limits of liability not less than One Million Dollars (\$1,000,000) combined single limit for both bodily injury and property damage. Such policy shall have the contractual exclusion removed, unless you provide separate evidence that contractual liability for automobile exposure is otherwise insured.
- 15.1.3 Statutory workers' compensation insurance and employer's liability insurance for a minimum limit equal to at least the greater of One Hundred Thousand Dollars (\$100,000) or the amounts required as underlying by your umbrella carrier, as well as such other disability benefits type insurance as may be required by statute or rule of the state in which the Restaurant is located.
- 15.1.4 If you are authorized by us to offer liquor for sale at the Restaurant pursuant to Section 8.8.7 above, then in such event, liquor liability insurance shall be included within your commercial general liability insurance coverage, with limits as specified in Section 15.1.1 above, or separate equivalent coverage shall be provided written with the same limits as specified in Section 15.1.1 above.

- 15.1.5 Food borne illness, accidental and malicious contamination coverage, with minimum coverage of at least One Million Dollars (\$1,000,000).
- 15.1.6 Data theft and cybersecurity coverage, with minimum coverage of at least One Million Dollars (\$1,000,000).
- 15.1.7 Commercial umbrella liability insurance with limits which bring the total of all primary underlying coverages (commercial general liability, comprehensive automobile liability, employers liability and liquor liability) to not less than Three Million Dollars (\$3,000,000) or Five Million Dollars (\$5,000,000), as determined by us in our sole discretion, total limit of liability. Such umbrella liability shall provide at a minimum those coverages and endorsements required in the underlying policies.
- 15.1.8 Employment practices liability coverage, including first and third party coverage, with minimum coverage of at least One Million Dollars (\$1,000,000).
- 15.1.9 Property insurance providing coverage for direct physical loss or damage to real and personal property for all risk perils, including the perils of flood and earthquake. Appropriate coverage shall also be provided for boiler and machinery exposures and business interruption/extra expense exposures, written on an actual loss sustained basis. The policy or policies shall value property (real and personal) on a new replacement cost basis without deduction for depreciation and the amount of insurance shall not be less than the full replacement value of the Restaurant, its furniture, fixtures, equipment, and stock (real and personal property). Any deductibles contained in such policy shall be subject to our review and approval.
- 15.1.10 Any other insurance coverage that is required by federal, state, or municipal law.
- 15.2 *Endorsements.* All policies listed in Section 15.1 above (unless otherwise noted below) shall contain such endorsements as shall, periodically, be provided in the Manual. All policies shall waive subrogation as between us (and our insurance carriers) and you (and your insurance carriers).
- 15.3 *Notices to us.* In the event of cancellation, material change, or non-renewal of any policy, sixty (60) days' advance written notice must be provided to us in the manner provided in Section 24 below.
- 15.4 *Construction Coverages.* In connection with all significant construction, reconstruction, or remodeling of the Franchised Business during the term of this Agreement, you agree to require the general contractor, its subcontractors, and any other contractor, to effect and maintain at general contractor's and all other contractor's own expense, such insurance policies and bonds with such endorsements as are set forth in the Manual, all written by insurance or bonding companies that we have approved, having a rating as set forth in Section 15.1 above.
- 15.5 *Other Insurance Does Not Impact your Obligation.* The foregoing policies must be primary to and without right of contribution from any other insurance policy purchased by us, and your obligation to obtain and maintain the foregoing policy or policies in the amounts specified shall not be limited in any way by reason of any insurance that we may maintain, nor shall your performance of that obligation relieve you of liability under the indemnity provisions set forth in Section 21.4 below. Additionally, the requirements of this Section 15 shall not be reduced, diminished, eroded, or otherwise affected by insurance that you carry

(and/or claims made under that insurance) for other businesses, including, other Restaurants operated by you (and/or your affiliates) under the System.

- 15.6 *Additional Named Insureds.* All public liability and property damage policies shall list us and any affiliates we designate as additional named insureds, and shall also contain a provision that we and any affiliates we designate, although named as insureds, shall nevertheless be entitled to recover under said policies on any loss occasioned to us, them or our or their servants, agents, or employees by reason of the negligence of you or your servants, agents, or employees.
- 15.7 *Certificates of Insurance.* At least thirty (30) days before the time you are first required to carry any insurance under this Agreement, and from then on, at least thirty (30) days before the expiration of any such policy, you agree to deliver to us certificates of insurance evidencing the proper coverage with limits not less than those required under this Agreement. All certificates shall expressly provide that we will receive at least ten (10) days' (in the case of your non-payment of the premium) or thirty (30) days' (in all other cases) prior written notice if there is a material alteration to, cancellation, or non-renewal of the coverages evidenced by such certificates. Additional certificates evidencing the insurance required by Section 15.1 above must name us, and each of our affiliates, directors, agents, and employees, as additional insured parties, and shall expressly provide that any interest of same therein shall not be affected by any breach by you of any policy provisions for which such certificates evidence coverage.
- 15.8 *Proof of Coverage.* In addition to your obligations under Section 15.7 above, on the first anniversary of the Effective Date, and on each subsequent anniversary of the Effective Date, you agree to provide us with proof of insurance evidencing the proper coverage with limits not less than those required under this Agreement, in such form as we may reasonably require.
- 15.9 *Coverages are Minimums.* You acknowledge and agree that the specifications and coverage requirements in this Section 15 are minimums, and that we recommend that you review these with your own insurance advisors to determine whether additional coverage is warranted in the operation of your Franchised Business.
- 15.10 *Changes.* We will have the right, periodically, to make such changes in minimum policy limits and endorsements as we may determine are necessary or appropriate; provided, however, all changes shall apply to all of our franchisees who are similarly situated.

## **16 TRANSFER OF INTEREST**

- 16.1 *By Us.* We have the right to transfer or assign this Agreement and all or any part of our rights or obligations under this Agreement to any person or legal entity, and any assignee of us, which assignee will become solely responsible for all of our obligations under this Agreement from the date of assignment.
- 16.2 *Your Principals.* If you are an entity, then each party that directly or indirectly holds any interest whatsoever in you (each, a "**Principal**"), and the interest that each Principal directly or indirectly holds in you, is identified in Exhibit C to this Agreement. You represent and warrant to us, and agree, that your owners are accurately set forth on Exhibit C to this Agreement, and you also agree not to permit the identity of those owners, or their respective interests in you, to change without complying with this Agreement.

- 16.3 *Principals.* We will have a continuing right to designate any person or entity that owns a direct or indirect interest in you as a Principal, and Exhibit C shall be so amended automatically upon written notice to you.
- 16.4 *By You.* You understand and acknowledge that the rights and duties set forth in this Agreement are personal to you, and that we have granted this franchise in reliance on your (or your Principals') business skill, financial capacity, and personal character. Accordingly:
- 16.4.1 You agree not to make a transfer (and not to permit any other party to make a transfer) without our prior written consent.
- 16.4.1.1 As used in this Agreement, the term “**transfer**” is agreed to mean any sale, assignment, conveyance, pledge, encumbrance, merger, creation of a security interest in, and/or giving away of any interest (including direct, indirect, and beneficiary interests) in: **(a)** this Agreement; **(b)** you; **(c)** any or all of your rights and/or obligations under this Agreement; and/or **(d)** all or substantially all of the assets of the Franchised Business.
- 16.4.1.2 Any purported assignment or transfer not having our prior written consent as required by this Section 16 shall be null and void and shall also constitute a material breach of this Agreement, for which we may immediately terminate this Agreement without opportunity to cure, pursuant to Section 17.2.5 below.
- 16.4.2 If you are an entity (other than a partnership or a limited liability partnership), then you agree that: **(a)** without our prior written approval, you will not issue any voting securities or interests, or securities or interests convertible into voting securities; and **(b)** the recipient of any such securities or other interest shall become a Principal under this Agreement, if we designate them as such.
- 16.4.3 If you are a partnership or limited liability partnership, then the partners of that partnership shall not, without our prior written consent, admit additional general partners, remove a general partner, or otherwise materially alter the powers of any general partner. Each general partner in such a partnership shall automatically be deemed to be a Principal.
- 16.4.4 Principals shall not, without our prior written consent, transfer, pledge or otherwise encumber their interest in you.
- 16.5 *Transfer Conditions.* We will not unreasonably withhold any consent required by Section 16.4 above; provided, that if you propose to transfer your obligations under this Agreement or any material asset, or if any party proposes to transfer any direct or indirect interest in you, then we will have the right to require that you satisfy any or all of the following conditions before we grant our approval to the proposed transfer:
- 16.5.1 The transferor must have executed a general release, in a form satisfactory to us, of any and all claims against us and our affiliates, successors, and assigns, and their respective directors, officers, members, managers, shareholders, partners, agents, representatives, servants, and employees in their corporate and individual capacities including, without limitation, claims arising under this Agreement, any other agreement between you and us, and/or our respective affiliates, and federal, state, and local laws and rules.

- 16.5.2 The transferee of a Principal shall be designated as a Principal and each transferee who is designated a Principal shall enter into a written agreement, in a form satisfactory to us, agreeing to be bound as a Principal under the terms of this Agreement as long as such person or entity owns any interest in you; and, if your obligations were guaranteed by the transferor, the Principal shall guarantee the performance of all such obligations in writing in a form satisfactory to us
- 16.5.3 The proposed new Principals (after the transfer) must meet our educational, managerial, and business standards; each shall possess a good moral character, business reputation, and credit rating; have the aptitude and ability to operate the Franchised Business, as may be evidenced by prior related business experience or otherwise; and have adequate financial resources and capital to operate the Franchised Business.
- 16.5.4 We will have the right to require that you execute, for a term ending on the expiration date of this Agreement, the form of franchise agreement that we are then offering to new System franchisees, and such other ancillary agreements that we may require for the business franchised under this Agreement, and those agreements shall supersede this Agreement and its ancillary documents in all respects, and the terms of which may differ from the terms of this Agreement including, without limitation, a higher royalty and marketing fee.
- 16.5.5 If we request, then you must conduct Remodeling and purchase new equipment to conform to the then-current standards and specifications of new Restaurants then-being established in the System, and you agree to complete the upgrading and other requirements specified above in Section 8.6 within the time period that we specify;.
- 16.5.6 You agree to pay in full all of your monetary obligations to us and our affiliates, and to all vendors (whether arising under this Agreement or otherwise), and you must not be otherwise in default of any of your obligations under this Agreement (including your reporting obligations).
- 16.5.7 The transferor shall remain liable for all of the obligations to us in connection with the Franchised Business that arose before the effective date of the transfer, and any covenants that survive the termination or expiration of this Agreement, and shall execute any and all instruments that we reasonably request to evidence such liability.
- 16.5.8 A Principal of the transferee whom we designate to be a new Operating Partner, and those of the transferee's Specially Trained Management Employees as we may require, shall successfully complete (to our satisfaction) all training programs that we require upon such terms and conditions as we may reasonably require (and while we will not charge a fee for attendance at such training programs, the transferee shall be responsible for the salary and all expenses of the person(s) that attend training).
- 16.5.9 You agree to pay us a transfer fee to compensate us for our legal, accounting, training, and other expenses incurred in connection with the transfer in an amount equal to the greater of Four Thousand Five Hundred Dollars (\$4,500) or fifteen percent (15%) of the initial franchise fee then being charged to new System franchisees.
- 16.5.10 The transferor must acknowledge and agree that the transferor shall remain bound by the covenants contained in Sections 19.3 – 19.5 below.

- 16.6 *Right of First Refusal.* If you or any of your Principals wish to accept any *bona fide* offer from a third party to purchase you, any of your material assets, or any direct or indirect interest in you, then all of the following shall apply:
- 16.6.1 You (or the Principal who proposes to sell his/her interest) shall promptly notify us in writing of the offer and provide to us the information and documentation relating to the offer that we may require. We will have the right and option, exercisable within thirty (30) days after we have received all such information that we have requested, to send written notice to the seller that we intend to purchase the seller's interest on the same economic terms and conditions offered by the third party. After exercising our right, we will also have the right to conduct additional reasonable due diligence and to require the seller to enter into a purchase agreement in a form mutually acceptable to us and to the seller. If we elect to purchase the seller's interest, then the closing on such purchase shall occur within thirty (30) days from the date of notice to the seller of the election to purchase by us.
- 16.6.2 Any material change in the terms of the offer before closing shall constitute a new offer subject to our same rights of first refusal (as set forth in this Section 16.6) as in the case of the third party's initial offer. If we do not exercise the option afforded by this Section 16.6, that shall not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Section 16, with respect to a proposed transfer.
- 16.6.3 If the consideration, terms, and/or conditions offered by a third party are such that we may not reasonably be required to furnish the same consideration, terms, and/or conditions, then we may purchase the interest proposed to be sold for the reasonable equivalent in cash. If the parties cannot agree within a reasonable time on the reasonable equivalent in cash of the consideration, terms, and/or conditions offered by the third party, they must attempt to appoint a mutually-acceptable independent appraiser to make a binding determination. If the parties are unable to agree upon one independent appraiser, then we shall promptly designate an independent appraiser and you shall promptly designate another independent appraiser and those two appraisers shall, in turn, promptly designate a third appraiser; and all three appraisers shall promptly confer and reach a single determination, which determination shall be binding upon both you and us. The cost of any such appraisal shall be shared equally by both parties.
- 16.6.4 If we exercise our rights under this Section 16.6, then we will have the right to set off all amounts due from you, including one-half ( $\frac{1}{2}$ ) of the cost of the appraisal, if any, specified above in Section 16.6.3 against any payment to you.
- 16.7 *Death or Incapacity.* If you or any Principal dies, becomes incapacitated, or enters bankruptcy proceedings, that person's executor, administrator, personal representative, or trustee must promptly notify us of the circumstances, and apply to us in writing within three (3) months after the event (death, declaration of incapacity, or filing of a bankruptcy petition) for consent to transfer the person's interest. The transfer will be subject to the provisions of this Section 16, as applicable; however, we will not impose a transfer fee for such a transfer if you reimburse us for our reasonable out-of-pocket expenses incurred in reviewing, approving, and documenting a your proposed transaction, including our attorneys' fees.
- 16.7.1 In addition, if the deceased or incapacitated person is the Operating Partner, we will have the right (but not the obligation) to take over operation of the Franchised

Business until the transfer is completed and to charge a reasonable management fee for our services.

- 16.7.2 For purposes of this section, “**incapacity**” means any physical or mental infirmity that will prevent the person from performing his or her obligations under this Agreement: **(a)** for a period of thirty (30) or more consecutive days; or **(b)** for sixty (60) or more total days during a calendar year. In the case of transfer by bequest or by intestate succession, if the heirs or beneficiaries are unable to meet the conditions of Section 16.3, the executor may transfer the decedent’s interest to another successor that we have approved, subject to all of the terms and conditions for transfers contained in this Agreement.
- 16.7.3 If an interest is not disposed of under this section within six (6) months after the date of death or appointment of a personal representative or trustee, we may terminate this Agreement under Section 17.2 below.
- 16.8 *Consent to Transfer.* Our consent to a transfer that is the subject of this Section 16 shall not constitute a waiver of any claims that we may have against the transferring party, nor shall it be deemed a waiver of our right to demand exact compliance with any of the terms of this Agreement by the transferor or transferee.
- 16.9 *No Transfers to a Non-Franchisee Party to Operate a Similar Business.* You agree that neither you nor any Principal of yours will transfer or attempt to transfer any or all of your Franchised Business to a third party who will operate a similar business at the Approved Location but not under the System and the Proprietary Marks, and not under a franchise agreement with us.
- 16.10 *Bankruptcy Issues.* If you or any person holding any interest (direct or indirect) in you become a debtor in a proceeding under the U.S. Bankruptcy Code or any similar law in the U.S. or elsewhere, it is the parties’ understanding and agreement that any transfer of you, your obligations, and/or rights under this Agreement, any material assets of yours, and/or any indirect or direct interest in you will be subject to all of the terms of this Section 16, including the terms of Sections 16.4, 16.5, and 16.6 above.
- 16.11 *Securities Offers.* All materials for an offering of stock, ownership, and/or partnership interests in you or any of your affiliates that are required by federal or state law must be submitted to us for review as described below before such materials are filed with any government agency. Any materials to be used in any exempt offering must be submitted to us for such review before their use.
- 16.11.1 You agree that: **(a)** no offering by you or any of your affiliates may imply (by use of the Proprietary Marks or otherwise) that we are participating in an underwriting, issuance, or offering of your securities or your affiliates; **(b)** our review of any offering will be limited solely to the relationship between you and us (and, if applicable, any of your affiliates and us); and **(c)** we will have the right, but not obligation, to require that the offering materials contain a written statement that we require concerning the limitations stated above.
- 16.11.2 You (and the offeror if you are not the offering party), your Principals, and all other participants in the offering must fully indemnify us and all of the Nathan’s Parties (as defined in Section 21.5.2 below) in connection with the offering.

16.11.3 For each proposed offering, you agree to pay us a non-refundable fee of Seven Thousand Five Hundred Dollars (\$7,500) or such greater amount as is necessary to reimburse us for our reasonable costs and expenses (including legal and accounting fees) for reviewing the proposed offering.

16.11.4 You agree to give us written notice at least thirty (30) days before the date that any offering or other transaction described in this Section 16.11 commences. Any such offering will be subject to all of the other provisions of this Section 16, including the terms set forth in Sections 16.4, 16.5, 16.6; and further, without limiting the foregoing, it is agreed that any such offering will be subject to our approval as to the structure and voting control of the offeror (and you, if you are not the offeror) after the financing is completed.

16.11.5 You also agree that after your initial offering, described above, for the remainder of the term of the Agreement, you will submit to us for our review and prior written approval all additional securities documents (including periodic reports, such as quarterly, annual, and special reports) that you prepare and file (or use) in connection with any such offering. You agree to reimburse us for our reasonable costs and expenses (including legal and accounting fees) that we incur in connection with our review of those materials.

## 17 DEFAULT AND TERMINATION

17.1 *Automatic.* If any one or more of the following events take place, then you will be deemed to be in default under this Agreement, and all rights granted in this Agreement shall automatically terminate without notice to you: **(a)** if you will become insolvent or makes a general assignment for the benefit of creditors; **(b)** if you file a petition in bankruptcy or such a petition is filed against and not opposed by you (to the extent permitted under the U.S. Bankruptcy Code); **(c)** if you are adjudicated bankrupt or insolvent (to the extent permitted under the U.S. Bankruptcy Code); **(d)** if a bill in equity or other proceeding for the appointment of a receiver for you or another custodian for your business or assets is filed and consented to by you; **(e)** if a receiver or other custodian (permanent or temporary) of your assets or property, or any part thereof, is appointed by any court of competent jurisdiction; **(f)** if proceedings for a composition with creditors under any state or federal law is instituted by or against you; **(g)** if a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless unappealed or a supersedeas bond is filed); **(h)** if you are dissolved; or if execution is levied against your business or property; **(i)** if suit to foreclose any lien or mortgage against the Franchised Business premises or equipment is instituted against you and not dismissed within thirty (30) days; and/or **(j)** if the real or personal property of your Franchised Business shall be sold after levy thereupon by any sheriff, marshal, or constable.

17.2 *With Notice.* If any one or more of the following events occur, then you will be in default under this Agreement, and we will have the right to terminate this Agreement and all rights granted under this Agreement, without affording you any opportunity to cure the default, effective immediately upon the delivery of our written notice to you (in the manner provided in Section 24 below):

17.2.1 If you do not obtain an Accepted Location for the Franchised Business within the time limits specified under the Site Selection Addendum, or if you do not construct and open the Franchised Business within the time limits specified in Sections 5.1 and 8.2 above, and within the requirements stated in Sections 5 and 8.2 above;

- 17.2.2 If you at any time cease to operate or otherwise abandon the Franchised Business for two (2) consecutive business days (during which you are otherwise required to be open, and without our prior written consent to do so), or lose the right to possession of the premises, or otherwise forfeit the right to do or transact business in the jurisdiction where the Franchised Business is located (however, if through no fault of yours, the premises are damaged or destroyed by an event such that you cannot complete repairs or reconstruction within ninety (90) days thereafter, then you will have thirty (30) days after such event in which to apply for our approval to relocate and/or reconstruct the premises, which approval we shall not unreasonably withhold);
- 17.2.3 If you or any of your Principals are convicted of a felony, a crime involving moral turpitude, or any other crime or offense that we believe is reasonably likely to have an adverse effect on the System, the Proprietary Marks, the goodwill associated therewith, or our interest therein;
- 17.2.4 If a threat or danger to public health or safety results from the construction, maintenance, or operation of the Franchised Business;
- 17.2.5 If you or any of your Principals purport to transfer any rights or obligations under this Agreement or any interest to any third party in a manner that is contrary to the terms of Section 16 above;
- 17.2.6 If you fail to comply with the requirements of Section 19 below;
- 17.2.7 If, contrary to the terms of Sections 10 or 11 above, you disclose or divulge the contents of the Manual or other confidential information that we provide to you;
- 17.2.8 If an approved transfer of an interest in you is not completed within a reasonable time, as required by Sections 16.7 above;
- 17.2.9 If you knowingly maintain false books or records, or submit any false reports (including, information provided as part of your application for this franchise) to us;
- 17.2.10 If you commit three (3) or more defaults under this Agreement in any fifty-two (52) week period, whether or not each such default has been cured after notice;
- 17.2.11 If you sell products that we have not previously approved, or purchase any product from a supplier that we have not previously approved, or if you sell any Proprietary Items anywhere other than from the Restaurant (except as permitted under Section 1.5 above) or sell any Proprietary Items that are not authorized for sale at retail;
- 17.2.12 If you engage in any conduct or practice that is fraudulent, unfair, unethical, or a deceptive practice; and/or
- 17.2.13 If you make any unauthorized or improper use of the Proprietary Marks, or if you or any of your Principals use the Proprietary Marks in a manner that we do not permit (whether under this Agreement and/or otherwise) or that is inconsistent with our direction, or if you or any of your Principals directly or indirectly contest the validity of our ownership of the Proprietary Marks, our right to use and to license others to use the Proprietary Marks, or seek to (or actually do) register any of our Proprietary Marks with any agency (public or private) for any purpose without our prior written consent to do so.

17.3 *With Notice and Opportunity to Cure.*

17.3.1 Except as otherwise provided above in Sections 17.1 and 17.2 above, if you are in default of your obligations under this Agreement, then we may terminate this Agreement by giving you written notice of termination (in the manner provided under Section 24 below) stating the nature of the default at least thirty (30) days before the effective date of termination; provided, however, that you may avoid termination by: **(a)** immediately initiating a remedy to cure such default; **(b)** curing the default to our satisfaction; and **(c)** promptly providing proof of the cure to us, all within the thirty (30) day period. If you do not cure any such default within the specified time (or such longer period as applicable law may require), then this Agreement shall terminate without further notice to you effective immediately upon the expiration of the thirty (30) day period (or such longer period as applicable law may require).

17.3.2 If you are in default under the terms of any other franchise agreement or other contract between you (and/or your affiliates) and us (and/or our affiliates), that will also constitute a default under Section 17.3.1 above.

17.4 *Bankruptcy.* If, for any reason, this Agreement is not terminated pursuant to this Section 17, and the Agreement is assumed, or assignment of the same to any person or entity who has made a *bona fide* offer to accept an assignment of the Agreement is contemplated, pursuant to the U.S. Bankruptcy Code, then notice of such proposed assignment or assumption, setting forth: **(a)** the name and address of the proposed assignee; and **(b)** all of the terms and conditions of the proposed assignment and assumption; shall be given to us within twenty (20) days after receipt of such proposed assignee's offer to accept assignment of the Agreement; and, in any event, within ten (10) days before the date application is made to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption. We will then have the prior right and option, to be exercised by notice given at any time before the effective date of such proposed assignment and assumption, to accept an assignment of the Agreement to us upon the same terms and conditions, and for the same consideration, if any, as in the *bona fide* offer made by the proposed assignee, less any brokerage commissions that may be payable by you out of the consideration to be paid by such assignee for the assignment of the Agreement.

17.5 *Our Rights Instead of Termination.* If we are entitled to terminate this Agreement in accordance with Sections 17.2 or 17.3 above, we will also have the right to take any lesser action instead of terminating this Agreement.

17.6 *Reservation of Rights under Section 17.5.* If any rights, options, arrangements, or areas are terminated or modified in accordance with Section 17.5 above, such action shall be without prejudice to our right to terminate this Agreement in accordance with Sections 17.2 or 17.3 above, and/or to terminate any other rights, options or arrangements under this Agreement at any time thereafter for the same default or as a result of any additional defaults of the terms of this Agreement.

17.7 *Damages.* You agree to pay us all damages, costs, and expenses (including reasonable attorneys' fees, court costs, discovery costs, and all other related expenses), that we incur as a result of any default by you under this Agreement and any other agreement between the parties (and their respective affiliates) (in addition to other remedies that we may have).

## 18 OBLIGATIONS UPON TERMINATION OR EXPIRATION

Upon termination or expiration of this Agreement, all rights granted under this Agreement to you shall forthwith terminate, and all of the following shall take effect:

- 18.1 *Cease Operation.* You agree to: **(a)** immediately and permanently stop operating the Franchised Business; and **(b)** never directly or indirectly represent to the public that you are a present or former franchisee of ours.
- 18.2 *Stop Using Marks and Intellectual Property.* You agree to immediately and permanently cease to use, in any manner whatsoever, all aspects of the System, including any confidential methods, procedures and techniques associated with the System, the mark "Nathan's Famous" and any and all other Proprietary Marks, distinctive forms, slogans, signs, symbols, and devices associated with the System, and any and all other intellectual property associated with the System. Without limiting the foregoing, you agree to stop making any further use of any and all signs, marketing materials, displays, stationery, forms, and any other articles that display the Proprietary Marks.
- 18.3 *Cancel Assumed Names.* You agree to take such action as may be necessary to cancel any assumed name or equivalent registration which contains the mark "Nathan's Famous" and any and all other Proprietary Marks, and/or any other service mark or trademark of ours, and you will give us evidence that we deem satisfactory to provide that you have complied with this obligation within five (5) days after termination or expiration of this Agreement.
- 18.4 *Premises.* We will have the right (but not the obligation) to require you to assign to us any interest that you (and/or your affiliates) may have in the lease or sublease for the ground upon which the Restaurant is operated and/or for the building in which the Restaurant is operated.
- 18.4.1 If we do not elect or if we are unable to exercise any option we may have to acquire the lease or sublease for the premises of the Franchised Business, or otherwise acquire the right to occupy the premises, you will make such modifications or alterations to the premises operated under this Agreement (including, without limitation, the changing of the telephone number) immediately upon termination or expiration of this Agreement as may be necessary to distinguish the appearance of said premises from that of other Restaurants, and shall make such specific additional changes thereto as we may reasonably request for that purpose. In addition, you will cease use of all telephone numbers and any domain names, websites, e-mail addresses, and any other print and online identifiers, whether or not authorized by us, that you have while operating the Franchised Business, and shall promptly execute such documents or take such steps necessary to remove reference to the Franchised Business from all trade or business directories, including online directories, or at our request transfer same to us.
- 18.4.2 If you fail or refuse to comply with all of the requirements of this Section 18.4, then we (or our designee) shall have the right to enter upon the premises of the Franchised Business, without being guilty of trespass or any other tort, for the purpose of making or causing to be made such changes as may be required, at your cost, which expense you agree to pay upon demand.
- 18.5 *Our Option to Buy Your Assets.* We will have the right (but not the obligation), which we may exercise at any time within thirty (30) days after expiration, termination, or default under this Agreement and/or default under your lease/sublease for the premises, to buy from you

(and/or your affiliates) any or all of your furnishings, equipment, signs, fixtures, supplies, or inventory related to the operation of the Franchised Business, at the lesser of your cost or fair market value. The parties agree that "cost" shall be determined based upon a five (5) year straight-line depreciation of original costs. For equipment and fixtures that are five (5) or more years old, the parties agree that fair market value shall be deemed to be ten percent (10%) of the equipment's original cost. If we elect to exercise any option to purchase provided in this Section, we shall have the right to set off all amounts due from you.

- 18.6 *No Use of the Marks in Other Businesses.* You agree, if you continue to operate or subsequently begin to operate any other business, not to use any reproduction, counterfeit copy, or colorable imitation of the Proprietary Marks, either in connection with such other business or the promotion thereof, which is likely to cause confusion, mistake, or deception, or which is likely to dilute our rights in and to the Proprietary Marks. You further agree not to use, in any manner whatsoever, any designation of origin, description, trademark, service mark, or representation that suggests or implies a past or present association or connection with us, the System, the Products, and/or the Proprietary Marks.
- 18.7 *Pay All Sums Due.* You agree to promptly pay all sums owing to us and our affiliates (regardless whether those obligations arise under this Agreement or otherwise). In the event of termination for any of your defaults, those sums shall include all damages, costs, and expenses (including reasonable attorneys' fees, court costs, discovery costs, and all other related expenses), that we incur as a result of the default.
- 18.8 *Pay Damages.* You agree to pay us all damages, costs, and expenses (including reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) that we incur as a result of your default under this Agreement and/or subsequent to the termination or expiration of this Agreement in obtaining injunctive or other relief for the enforcement of any provisions of Section 18, which will be in addition to amounts due to us under Section 18.11 below.
- 18.9 *Return Confidential Information.* You agree to immediately return to us the Manual and all other manuals, records, and instructions containing confidential information (including, without limitation, any copies thereof, even if such copies were made in violation of this Agreement), all of which are acknowledged to be our property.
- 18.10 *Right to Enter and Continue Operations.* In order to preserve the goodwill of the System following termination, we (or our designee) shall have the right to enter the Franchised Business (without liability to you, your Principals, or otherwise) for the purpose continuing the Franchised Business's operation and maintaining the goodwill of the business.
- 18.11 *Lost Future Royalties.* If we terminate this Agreement based on your default, or if you abandon or otherwise ceases to operate the Franchised Business, you agree to pay to us, as liquidated damages, an amount calculated as follows: **(a)** the average of your monthly Royalty Fees that are due under this Agreement for the twelve (12) months immediately before your abandonment or our delivery of the notice of default (or, if you have been operating for less than 12 months, the average of your monthly Royalty Fees for the number of months you have operated the Restaurant); **(b)** multiplied by the lesser of 36 or the number of months remaining in the then-current term of this Agreement under Section 2. The parties agree that this clause represents a good faith effort to estimate certain lost revenue, and that it does not represent, and shall not be construed as, a penalty.
- 18.12 *Our Rights.* You agree not to do anything that would potentially interfere with or impede the exercise of our rights under this Section 18.

18.13 *Offsets.* We have the right to offset amounts that you owe to us against any payment that we may be required to make under this Agreement.

## 19 COVENANTS

19.1 *Full Time Efforts.* You agree that during the term of this Agreement, except as we have otherwise approved in writing, you (or the Operating Partner) shall devote full time, energy, and best efforts to the management and operation of the Franchised Business.

19.2 *Understandings.*

19.2.1 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 we have established and that you will have access to 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 franchisees in our system if franchisees were permitted to hold interests in Competitive Businesses (as defined below); and **(e)** restrictions on your right to hold interests in, or perform services for, Competitive Businesses will not unreasonably or unnecessarily hinder your activities.

19.2.2 As used in this Section 19, the term “**Competitive Business**” is agreed to mean any business which features hot dogs and/or sausages as a principal menu item.

19.3 *Covenant Not to Compete or Engage in Injurious Conduct.* Accordingly, you covenant and agree that, during the term of this Agreement and for a continuous period of two (2) years after the expiration or termination of this Agreement, and/or a transfer as contemplated in Section 16 above, you shall not directly, indirectly, for yourself, or through, on behalf of, or in conjunction with any party, in any manner whatsoever, do any of the following:

19.3.1 Divert or attempt to divert any actual or potential business or customer of any “Nathan’s Famous” Restaurant to any competitor or otherwise take any action injurious or prejudicial to the goodwill associated with the Marks and the System.

19.3.2 Own, maintain, develop, operate, engage in, franchise or license, make loans to, lease real or personal property to, and/or have any whatsoever interest in, or render services or give advice to, any Competitive Business.

19.4 *Where Restrictions Apply.* During the term of this Agreement, there is no geographical limitation on the restrictions set forth in Section 19.3 above. During the two-year period following the expiration or earlier termination of this Agreement, or a transfer as contemplated under Section 16 above, these restrictions shall apply only within three (3) miles of the Approved Location. These restrictions shall not apply to restaurants that you operate that we (or our affiliates) have franchised to you pursuant to a valid franchise agreement.

- 19.5 *Application to Transfers.* You further covenant and agree that, for a continuous period of two (2) years after the expiration or termination of this Agreement, and/or a transfer as contemplated in Section 16 above, 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 Approved Location to any person, firm, partnership, corporation, or other entity that you know, or have reason to know, intends to operate a Competitive Business at the Approved Location. You, by the terms of any conveyance selling, assigning, leasing or transferring your interest in the Approved Location, shall include these restrictive covenants as are necessary to ensure that a Competitive Business that would violate this Section is not operated at the Approved Location for this two-year period, and you shall take all steps necessary to ensure that these restrictive covenants become a matter of public record.
- 19.6 *Periods of Non-Compliance.* Any period of non-compliance with the requirements of this Section 19, whether such non-compliance takes place after termination, expiration, and/or a transfer, will not be credited toward satisfying the two-year obligation specified above.
- 19.7 *Publicly-Held Entities.* Section 19.3.3 above shall not apply to your ownership of less than five percent (5%) beneficial interest in the outstanding equity securities of any publicly-held corporation. As used in this Agreement, the term “publicly-held corporation” shall be deemed to refer to a corporation which has securities that have been registered under the Securities Exchange Act of 1934.
- 19.8 *Personal Covenants.* You agree to require and obtain execution of covenants similar to those set forth in Sections 9.3, 11, 16, 18 above, and this Section 19 (as modified to apply to an individual), from your Specially Trained Management Employees and other managerial and/or executive staff, as well as your Principals. The covenants required by this section shall be in the form provided in Exhibit F to this Agreement. If you do not obtain execution of a covenant required by this section and deliver to us those signed covenants, that shall constitute a default under Section 17.2.6 above.
- 19.9 *Construction.* The parties agree that each of the foregoing covenants will be construed as independent of any other covenant or provision of this Agreement. We have the right to reduce in writing the scope of any part of this Section 19 and, if we do so, you agree to comply with the obligations as we have reduced them.
- 19.10 *Claims Not a Defense.* You agree that the existence of any claims you may have against us, whether or not arising from this Agreement, shall not constitute a defense to our enforcement of the covenants in this Section 19. You agree to pay all costs and expenses (including reasonable attorneys’ fees, court costs, discovery costs, and all other related expenses) that we incur in connection with the enforcement of this Section 19.
- 19.11 *Covenant as to Anti-Terrorism Laws.* You and the owners of your business (“**Owners**”) agree to comply with and/or to assist us to the fullest extent possible in our efforts to comply with Anti-Terrorism Laws (as defined below). In connection with such compliance, you and the Owners certify, represent, and warrant that none of their respective property or interests are “blocked” under any of the Anti-Terrorism Laws and that neither you nor any of the Owners are in violation of any of the Anti-Terrorism Laws. You also agree not to knowingly hire or do business with (or continue to employ or do business with) any party who is blocked under any of the Anti-Terrorism Laws. The term “**Anti-Terrorism Laws**” means Executive Order 13224 issued by the President of the United States, as supplemented, the USA PATRIOT Act, and all other laws and regulations addressing or in any way relating to terrorist acts and/or acts of war.

19.12 *Defaults.* You acknowledge and agree that your violation of the terms of this Section 19 would result in irreparable injury to us for which no adequate remedy at law may be available, and you accordingly consent to the issuance of an injunction prohibiting any conduct in violation of the terms of this Section 19.

## **20 TAXES, PERMITS, AND INDEBTEDNESS**

20.1 *Payment of Taxes.* You agree to 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 that you incur in the conduct of the business franchised under this Agreement. You agree to pay us an amount equal to any sales tax, gross receipts tax, or similar tax (other than income tax) imposed on us with respect to any payments that you make to us as required under this Agreement, unless the tax is credited against income tax that we otherwise pay to a state or federal authority.

20.2 *Payment of Trade Creditors.* You agree to promptly pay when due all trade creditors and vendors (including any that are affiliated with us) that supply goods or services to you and/or the Franchised Business.

20.3 *Your Right to Contest Liabilities.* If there is a 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 premises of the Franchised Business, or any improvements thereon.

20.4 *Compliance with Law.* You agree to comply with all federal, state, and local laws, rules, and regulations, and shall timely obtain any and all permits, certificates, or licenses necessary for the full and proper conduct of the business franchised under this Agreement, including, without limitation, licenses to do business, health certificates, liquor licenses, food handler's permits, fictitious name registrations, sales tax permits, and fire clearances. To the extent that the requirements of any such laws are in conflict with the terms of this Agreement, the Manual, or our other instructions, you agree to: **(a)** comply with said laws; **(b)** immediately provide us with written notice describing the nature of the conflict; and **(c)** cooperate with us and our counsel in developing a way to comply with the terms of this Agreement, as well as applicable law, to the extent that it is possible to do so.

20.5 *Notice of Violations and Actions.* You agree to notify us in writing within five (5) days after you receive notice of any health or safety violation, the commencement of any action, suit, or proceeding, and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, or within five (5) days occurrence of any accident or injury which may adversely affect the operation of the Franchised Business or your financial condition, or give rise to liability or a claim against either party to this Agreement.

## **21 INDEPENDENT CONTRACTOR AND INDEMNIFICATION**

21.1 *Independent Contractor Relationship.* The parties acknowledge and agree that:

21.1.1 this Agreement does not create a fiduciary relationship between them;

21.1.2 you are the only party that will be in day-to-day control of your franchised business, even though we will share the brand and Proprietary Marks as specified in this

Agreement, and neither this Agreement nor any of the systems, guidance, computer programs, processes, or requirements under which you operate alter that basic fact;

- 21.1.3 nothing in this Agreement and nothing in our course of conduct is intended to make either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose whatsoever; and
- 21.1.4 neither this Agreement nor our course of conduct is intended, nor may anything in this Agreement (nor our course of conduct) be construed, to state or imply that we are the employer of your employees and/or independent contractors, nor vice versa.
- 21.2 *Notice of Status.* At all times during the term of this Agreement and any extensions hereof, you will hold yourself out to the public as an independent contractor operating the business pursuant to a franchise from us. You agree to take such action as may be necessary to do so, including, without limitation, exhibiting a notice of that fact in a conspicuous place at the Approved Location, the content of which we reserve the right to specify.
- 21.3 *No Contracts in our Name.* It is understood and agreed that nothing in this Agreement authorizes you to make any contract, agreement, warranty, or representation on our behalf, or to incur any debt or other obligation in our name; and that we will in no event assume liability for, or be deemed liable under this Agreement as a result of, any such action; nor shall we be liable by reason of any act or omission in your conduct of the Franchised Business or for any claim or judgment arising therefrom against either party to this Agreement.
- 21.4 *Indemnification.* You agree to indemnify, defend, and hold harmless each of the Nathan's Parties against any and all Damages arising directly or indirectly from any Asserted Claim as well as from your breach of this Agreement. Your indemnity obligations shall survive the expiration or termination of this Agreement, and shall not be affected by the presence of any applicable insurance policies and coverages that we may maintain.
- 21.5 *Definitions.* As used in Section 21.4 above, the parties agree that the following terms shall have the following meanings:
- 21.5.1 **"Asserted Claim"** means any allegation, claim, and/or complaint that is the result of, or in connection with, your exercise of your rights and/or carrying out of your obligations under this Agreement (including, any claim associated with your operation of the Franchised Business or otherwise), and/or any default by you under this Agreement, notwithstanding any claim that any Nathan's Party was or may have been negligent.
- 21.5.2 **"Nathan's Parties"** means us, our shareholders, parents, subsidiaries, and affiliates, and their respective officers, directors, members, managers, employees, and agents.
- 21.5.3 **"Damages"** means all claims, demands, causes of action, suits, damages, liabilities, fines, penalties, assessments, judgments, losses, and expenses (including expenses, costs and lawyers' fees incurred for any indemnified party's primary defense or for enforcement of its indemnification rights).

## 22 FORCE MAJEURE

- 22.1 *Impact.* Neither party shall be responsible to the other for non-performance or delay in performance occasioned by causes beyond its control, including without limiting the

generality of the foregoing: **(a)** acts of nature; **(b)** acts of war, terrorism, or insurrection; **(c)** strikes, lockouts, labor actions, boycotts, floods, fires, hurricanes, tornadoes, other environmental crisis, epidemics, other health crises, and/or other casualties; and/or **(d)** our inability (and that of our affiliates and/or suppliers) to manufacture, purchase, and/or cause delivery of any services and/or Products used in the operation of the Franchised Business.

- 22.2 *Transmittal of Funds.* The inability of either party to obtain and/or remit funds shall be considered within control of such party for the purpose of Section 22.1 above. If any such delay occurs, any applicable time period shall be automatically extended for a period equal to the time lost; provided, however, that the party affected makes reasonable efforts to correct the reason for such delay and gives to the other party prompt notice of any such delay; and further provided, however, that you will remain obligated to promptly pay all fees owing and due to us under this Agreement, without any such delay or extension.

## **23 APPROVALS AND WAIVERS**

- 23.1 *Request for Approval.* Whenever this Agreement requires our prior approval or consent, you agree to make a timely written request to us therefor, and such approval or consent must be obtained in writing.
- 23.2 *No Warranties or Guarantees.* You acknowledge and agree that we make no warranties or guarantees upon which you may rely, and that we assume no liability or obligation to you, by providing any waiver, approval, consent, or suggestion to you in connection with this Agreement, or by reason of any neglect, delay, or denial of any request therefor.
- 23.3 *No Waivers.* No delay, waiver, omission, or forbearance on our part to exercise any right, option, duty, or power arising out of any breach or default by you or any other franchisee under any of the terms, provisions, covenants, or conditions of this Agreement, and no custom or practice by the parties at variance with the terms of this Agreement, shall constitute our waiver of our right to enforce any such right, option, duty, or power as against you, or as to subsequent breach or default by you. If we accept late payments from you or any payments due, that shall not be deemed to be our waiver of any earlier or later breach by you of any terms, provisions, covenants, or conditions of this Agreement. No course of dealings or course of conduct will be effective to amend the terms of this Agreement.

## **24 NOTICES**

Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by certified U.S. mail, or by other means which affords the sender evidence of delivery, of rejected delivery, or attempted delivery to the respective parties at the addresses shown on the signature page of this Agreement, unless and until a different address has been designated by written notice to the other party. Any notice by a means that gives the sender evidence of delivery, rejected delivery, or delivery that is not possible because the recipient moved and left no forwarding address shall be deemed to have been given at the date and time of receipt, rejected, and/or attempted delivery. The Manual, any changes that we make to the Manual, and/or any other written instructions that we provide relating to operational matters, are not considered to be “notices” for the purpose of the delivery requirements in this Section 24.

## **25 ENTIRE AGREEMENT AND AMENDMENT**

- 25.1 *Entire Agreement.* This Agreement and the exhibits referred to in this Agreement constitute the entire, full, and complete Agreement between the parties to this Agreement concerning

the subject matter hereof, and supersede all prior agreements. The parties confirm that: **(a)** they were not induced by any representations other than the words of this Agreement (and the FDD) before deciding whether to sign this Agreement; and **(b)** they relied only on the words printed in this Agreement in deciding whether to enter into this Agreement. However, nothing in this Section is intended as, nor shall it be interpreted to be, a disclaimer by us of any representation made in our Franchise Disclosure Document (“FDD”), including the exhibits and any amendments to the FDD.

- 25.2 *Amendment.* Except for those changes that we are permitted to make unilaterally under 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 by their authorized officers or agents in writing.

## **26 SEVERABILITY AND CONSTRUCTION**

- 26.1 *Introductory Paragraphs.* The parties agree that the introductory paragraphs of this Agreement, under the heading “Introduction”, are accurate, and the parties agree to incorporate those paragraphs into the text of this Agreement as if they were printed here.

- 26.2 *Severability.* Except as expressly provided to the contrary herein, each portion, section, part, term, and/or provision of this Agreement shall be considered severable; and if, for any reason, any section, part, term, and/or provision herein is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court or agency having valid jurisdiction, such shall not impair the operation of, or have any other effect upon, such other portions, sections, parts, terms, and/or provisions of this Agreement as may remain otherwise intelligible; and the latter shall continue to be given full force and effect and bind the parties hereto; and said invalid portions, sections, parts, terms, and/or provisions shall be deemed not to be a part of this Agreement.

- 26.3 *No Third Party Rights.* Except as expressly provided to the contrary herein, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than you, we, and such of our respective successors and assigns as may be contemplated (and, as to you, permitted) by Section 16.4 above, any rights or remedies under or by reason of this Agreement.

- 26.4 *Captions Don't Amend Terms.* All captions in this Agreement are intended solely for the convenience of the parties, and no caption shall be deemed to affect the meaning or construction of any provision hereof.

- 26.5 *Including.* The parties agree that whenever used in this Agreement, the terms “includes” and “including” mean “including but not limited to”.

- 26.6 *Survival.* All provisions of this Agreement which, by their terms or intent, are designed to survive the expiration or termination of this Agreement, shall so survive the expiration and/or termination of this Agreement.

- 26.7 *How We Exercise Our Rights.* Although we may exercise any of our rights, carry out any of our obligations, or otherwise discharge any of our duties under this Agreement directly, through the use of employees, independent contractors, professional advisors (for example, a CPA), or otherwise, we will still remain responsible for the proper performance of our obligations to you under this Agreement. You agree that in any instance in which we have a right as set out in this Agreement, we may exercise that right (unless otherwise provided) once and/or at any additional times that we deem it appropriate to do so.

26.8 *Expenses.* Each party shall bear all of the costs of exercising its rights and carrying out its responsibilities under this Agreement, except as otherwise provided.

26.9 *Counterparts.* This Agreement may be signed in counterparts, and signature pages may be exchanged by fax, each such counterpart, when taken together with all other identical copies of this Agreement also signed in counterpart, shall be considered as one complete Agreement.

## **27 APPLICABLE LAW AND DISPUTE RESOLUTION**

27.1 *Choice of Law.* This Agreement takes effect when we accept and sign this document. This Agreement shall be interpreted and construed exclusively under the laws of the State of New York, which laws shall prevail in the event of any conflict of law (without regard to, and without giving effect to, the application of New York choice-of-law rules); provided, however, that if the covenants in Section 19 of this Agreement would not be enforced as written under New York law, then the parties agree that those covenants will instead be interpreted and construed under the laws of the state in which the Franchised Business is located. Nothing in this Section 27.1 is intended by the parties to invoke the application of any franchise, business opportunity, antitrust, implied covenant, unfair competition, fiduciary, and/or other doctrine of law of the State of New York (or any other state) that would not otherwise apply absent this Section 27.1.

27.2 *Choice of Venue.* Subject to Section 27.3 below, the parties agree that any action that you bring against us, in any court, whether federal or state, must be brought only within such state and in the judicial district in which our principal place of business is then located. Any action brought by us against you in any court, whether federal or state, may be brought within the state and judicial district in which we then maintain our principal place of business.

27.2.1 The parties agree that this Section 27.2 shall not be construed as preventing either party from removing an action from state to federal court; provided, however, that venue shall be as set forth above.

27.2.2 The parties hereby waive all questions of personal jurisdiction or venue for the purpose of carrying out this provision.

27.2.3 Any such action shall be conducted on an individual basis, and not as part of a consolidated, common, or class action.

27.3 *Mediation.* Before any party may bring an action in court against the other, the parties agree that they must first meet to mediate the dispute (except as otherwise provided in Section 27.5 below). Any such mediation shall be non-binding and shall be conducted in accordance with the then-current rules for mediation of commercial disputes of JAMS (formerly, "Judicial Arbitration and Mediation Services, Inc.") at its location then-nearest to our principal place of business.

27.4 *Parties Rights Are Cumulative.* No right or remedy conferred upon or reserved to us or you by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

27.5 *Injunctions.* Nothing contained in this Agreement shall bar our right to obtain injunctive relief against threatened conduct that will cause us loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

- 27.6 **WAIVER OF JURY TRIALS.** EACH PARTY TO THIS AGREEMENT IRREVOCABLY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING.
- 27.7 **MUST BRING CLAIMS WITHIN ONE YEAR.** EACH PARTY TO THIS AGREEMENT AGREES THAT ANY AND ALL CLAIMS AND ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PARTIES' RELATIONSHIP, AND/OR YOUR OPERATION OF THE FRANCHISED BUSINESS, BROUGHT BY ANY PARTY HERETO AGAINST THE OTHER, SHALL BE COMMENCED WITHIN ONE (1) YEAR FROM THE OCCURRENCE OF THE FACTS GIVING RISE TO SUCH CLAIM OR ACTION, OR, IT IS EXPRESSLY ACKNOWLEDGED AND AGREED BY ALL PARTIES, SUCH CLAIM OR ACTION SHALL BE IRREVOCABLY BARRED. THIS SECTION 27.7 DOES NOT APPLY TO CLAIMS FOR INDEMNIFICATION UNDER THIS AGREEMENT.
- 27.8 **WAIVER OF PUNITIVE DAMAGES.** EACH PARTY TO THIS AGREEMENT HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM OF ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER, AND AGREE THAT IN THE EVENT OF A DISPUTE BETWEEN THEM EACH SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES IT HAS SUSTAINED (THE PARTIES AGREE THAT THE PROVISIONS OF SECTION 18.11 ARE CONSISTENT WITH THIS PROVISION AND SHALL BE ENFORCED NOTWITHSTANDING THE WAIVER IN THIS SECTION 27.8).
- 27.9 *Payment of Legal Fees.* You agree to pay us all damages, costs and expenses (including reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) that we incur in: (a) obtaining injunctive or other relief for the enforcement of any provisions of this Agreement (including Sections 9 and 17 above); and/or (b) successfully defending a claim from you that we misrepresented the terms of this Agreement, fraudulently induced you to sign this Agreement, that the provisions of this Agreement are not fair, were not properly entered into, and/or that the terms of this Agreement (as it may be amended by its terms) do not exclusively govern the parties' relationship.

## 28 ACKNOWLEDGMENTS

- 28.1 *Your Investigation of the Business Possibilities.* You acknowledge and agree that you have conducted an independent investigation of the business franchised under this Agreement, recognize that this business venture involves business risks, and that your success will be largely dependent upon your ability (or, if you are an entity, your owners as independent businesspersons).
- 28.2 *No Warranties or Guarantees.* We expressly disclaim the making of, and you acknowledge and agree that you have not received, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the business venture contemplated by this Agreement.
- 28.3 *Receipt of FDD and Complete Agreement.* You acknowledge and agree receipt of a copy of this Agreement, the exhibit(s), and agreements relating to this Agreement (if any), with all of the blank lines filled in, with ample time within which to review with applicable advisors. You also acknowledge that you received the FDD at least fourteen (14) days before the date on which this Agreement was signed, or as otherwise provided under applicable state law.
- 28.4 *You Have Read the Agreement.* You acknowledge and agree that you have read and understood the FDD, this Agreement, and the exhibits to this Agreement.

- 28.5 *Your Advisors.* You acknowledge that we have recommended that you seek advice from advisors of your own choosing (including a lawyer and an accountant) about the potential benefits and risks of entering into this Agreement, and that you have had sufficient time and opportunity to consult with those advisors.
- 28.6 *No Conflicting Obligations.* Each party represents and warrants to the others that there are no other agreements, court orders, or any other legal obligations that would preclude or in any manner restrict such party from: **(a)** negotiating and entering into this Agreement; **(b)** exercising its rights under this Agreement; and/or **(c)** fulfilling its responsibilities under this Agreement.
- 28.7 *Your Responsibility for the Choice of the Approved Location.* You acknowledge and agree that you have sole and complete responsibility for the choice of the Approved Location; that we have not (and shall not be deemed to have, even by our approval of the site that is the Approved Location) given any representation, promise, or guarantee of your success at the Approved Location; and that you will be solely responsible for your own success at the Approved Location.
- 28.8 *Your Responsibility for Operation of the Franchised Business.* Although we retain the right to establish and periodically modify System standards, which you have agreed to maintain in the operation of your franchised Restaurant, you retain the right and sole responsibility for the day-to-day management and operation of the Franchised Business and the implementation and maintenance of system standards at the Franchised Business.
- 28.9 *Different Franchise Offerings to Others.* You acknowledge and agree that we may modify the terms under which we will offer franchises to other parties in any manner and at any time, which offers and agreements have or may have terms, conditions, and obligations that may differ from the terms, conditions, and obligations in this Agreement.
- 28.10 *Our Advice.* You acknowledge and agree that our advice is just that; that our advice is not a guarantee of success; and that you are the party that must reach and implement your own decisions about how to operate your Franchised Business on a day-to-day basis under the System.
- 28.11 *Your Independence.* You acknowledge and agree that:
- 28.11.1 you are the only party that employs your employees (even though we may provide you with advice, guidance, and training);
- 28.11.2 we are not your employer nor are we the employer of any of your staff, and even if we express an opinion or provide advice, we will play no role in your decisions regarding their employment (including matters such as recruitment, hiring, compensation, scheduling, employee relations, labor matters, review, discipline, and/or dismissal);
- 28.11.3 the guidance that we provide, and requirements under which you will operate, are intended to promote and protect the value of the brand and the Proprietary Marks;
- 28.11.4 when forming and in operating your business, you had to adopt standards to operate that business, and that instead of developing and implementing your own standards (or those of another party), you chose to adopt and implement our standards for your business (including our System and the requirements under this Agreement); and

- 28.11.5 you have made (and will remain responsible at all times for) all of the organizational and basic decisions about establishing and forming your entity, operating your business (including adopting our standards as your standards), and hiring employees and employment matters (including matters such as recruitment, hiring, compensation, scheduling, employee relations, labor matters, review, discipline, and/or dismissal), engaging professional advisors, and all other facets of your operation.
- 28.12 *Success Depends on You.* You acknowledge and agree that the success of the business venture contemplated under this Agreement is speculative and depends, to a large extent, upon your ability as an independent businessperson, your active participation in the daily affairs of the business, market conditions, area competition, availability of product, quality of services provided as well as other factors. We do not make any representation or warranty express or implied as to the potential success of the business venture contemplated hereby.
- 28.13 *Two or More Signatories.* If two or more persons are signing this Agreement as the “Franchisee” (each, a “**Signatory**”), the parties agree that:
- 28.13.1 Each Signatory shall have the power to individually bind “Franchisee” with respect to us and third parties;
- 28.13.2 We have the right to treat each Signatory as having the full authority to bind all other Signatories in any and all matters;
- 28.13.3 We have the right to treat each Signatory as if s/he represents and can act on behalf of all the other Signatory(ies) in all matters;
- 28.13.4 Even though there may be more than one Signatory, all of the Signatories’ rights will be one and none of the Signatories will have the right to exercise any right independent of (and/or apart from) one another;
- 28.13.5 We have the right to communicate with or provide notice to any Signatory, and such communication or notice shall be deemed as having been given to all Signatories; and
- 28.13.6 If there is a conflict among the Signatories (including us receiving conflicting information from or requests between the Signatories), we have the right to select from among any conflicting or inconsistent requests by, or information from, any of the Signatories, and our selection in such case will be final and dispositive with respect to any such conflict.
- 28.14 *General Release.* If this Agreement is not the first contract between you (and your affiliates) and us (and our affiliates), then you agree to the following:
- You (on behalf of yourself and your parent, subsidiaries and affiliates and their respective past and present members, managers, officers, directors, shareholders, agents and employees, in their corporate and individual capacities) and all guarantors of your obligations under this Agreement (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 directors, officers, members, managers, shareholders, agents and employees, in their corporate and individual capacities (collectively “**Releasees**”), with respect to any and all claims, demands, liabilities and causes of action of whatever kind or nature, whether known or unknown, vested or contingent, suspected or unsuspected*

(collectively, "**claims**"), which any 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 any Releasee, the sale of any franchise to any Releasor, the development and operation of the Restaurants and the development and operation of all other restaurants operated by any Releasor that are franchised by any Releasee. You expressly agree that fair consideration has been given by us for this General Release and you fully understand that this is a negotiated, complete and final release of all claims. You understand as well that you may later learn of new or different facts, but still, it is your intention to fully, finally, and forever release all of the claims that are released above. This includes your waiver of state laws that may otherwise limit a release (for example, Calif. Civil Code Section 1542, which states that "[a] general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party"). You agree that fair consideration has been given by us for this General Release and you fully understand that this is a negotiated, complete and final release of all claims. This General Release does not release any claims arising from representations made in our Franchise Disclosure Document and its exhibits or otherwise affect any claims arising after the date of this Agreement.

\*\*\*\*\*

**IN WITNESS WHEREOF** and intending to be legally bound by this Agreement, the parties have duly signed and delivered this Agreement.

**Nathan's Famous Systems, Inc.**  
Franchisor

\_\_\_\_\_  
Franchisee Entity

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

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

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

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

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

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

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

Address for Notices:

Address for Notices:

One Jericho Plaza - Wing A, 2nd Fl.  
Jericho, New York 11753  
Fax: 516.338.7220  
Attn: President

\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Attn: \_\_\_\_\_

NATHAN'S FAMOUS SYSTEMS, INC.  
FRANCHISE AGREEMENT  
EXHIBIT A  
DATA ADDENDUM

¶	Section Cross-Reference	Item
1	1.2	The Approved Location under this Agreement shall be: <hr/> <hr/>
2	2.1	The term of this Agreement will expire on: _____, 202__

Initials

\_\_\_\_\_ Franchisee

\_\_\_\_\_ Franchisor

NATHAN'S FAMOUS SYSTEMS, INC.  
FRANCHISE AGREEMENT  
EXHIBIT B  
GUARANTEE, INDEMNIFICATION, AND ACKNOWLEDGMENT

In order to induce Nathan's Famous Systems, Inc. ("**Franchisor**") to sign the Nathan's Famous Franchise Agreement between Franchisor and \_\_\_\_\_ ("**Franchisee**"), dated \_\_\_\_\_, 202\_\_\_\_ (the "**Agreement**"), each of the undersigned parties, jointly and severally, hereby unconditionally guarantee to Franchisor and its successors and assigns that all of Franchisee's obligations (monetary and otherwise) under the Agreement as well as any other contract between Franchisee and Franchisor (and/or Franchisor's affiliates) will be punctually paid and performed.

Each individual signing this Personal Guarantee acknowledges and agrees, jointly and severally, that:

- Upon Franchisor's demand, s/he will immediately make each payment required of Franchisee under the Agreement and/or any other contract with Franchisor and/or its affiliates.
- S/he waives any right to require Franchisor to: **(a)** proceed against Franchisee for any payment required under the Agreement (and/or any other contract with Franchisor and/or its affiliates); **(b)** proceed against or exhaust any security from Franchisee; **(c)** pursue or exhaust any remedy, including any legal or equitable relief, against Franchisee; and/or **(d)** give notice of demand for payment by Franchisee.
- Without affecting the obligations of the undersigned persons under this Guarantee, Franchisor may, without notice to the undersigned, extend, modify, or release any indebtedness or obligation of Franchisee, or settle, adjust, or compromise any claims against Franchisee. Each of the undersigned persons waive notice of amendment of the Agreement (and any other contract with Franchisor and Franchisor's affiliates) and notice of demand for payment by Franchisee, and agree to be bound by any and all such amendments and changes to the Agreement (and any other contract with Franchisor and Franchisor's affiliates).
- S/he will defend, indemnify and hold Franchisor harmless against any and all losses, damages, liabilities, costs, and expenses (including reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) resulting from, consisting of, or arising out of or in connection with any failure by Franchisee to perform any obligation of Franchisee under the Agreement (and any other contract with Franchisor and Franchisor's affiliates) and/or any amendment to the Agreement.
- S/he will be personally bound by all of Franchisee's covenants, obligations, and promises in the Agreement.
- S/he agrees to be individually bound by all of Franchisee's covenants, obligations, and promises in the Agreement, which include, but are not limited to, the covenants in the following Sections of the Agreement: **Section 9.3** (generally regarding trademarks), **Section 11** (generally regarding confidentiality), **Section 16** (generally regarding Transfers), **Section 18** (generally regarding obligations upon termination or expiration of this

Agreement), and **Section 19** (generally regarding covenants against competition) of the Agreement.

- S/he understands that: **(a)** this Guarantee does not grant them any rights under the Agreement (including but not limited to the right to use any of Franchisor's marks such as the "Nathan's Famous" marks) and/or the system licensed to Franchisee under the Agreement; **(b)** that they have read, in full, and understand, all of the provisions of the Agreement that are referred to above in this paragraph, and that they intend to fully comply with those provisions of the Agreement as if they were printed here; and **(c)** that they have had the opportunity to consult with a lawyer of their own choosing in deciding whether to sign this Guarantee.

This Guarantee shall terminate upon the termination or expiration of all obligations of Franchisee under the Agreement and/or any other agreements between Franchisee and Franchisor, except that all obligations and liabilities of the undersigned which arose from events which occurred on or before the effective date of such termination shall remain in full force and effect until satisfied or discharged by the undersigned, and all covenants which by their terms continue in force after the expiration or termination of the Agreement shall remain in force according to their terms. Upon the death of an individual guarantor, the estate of such guarantor shall be bound by this Guarantee, but only for defaults and obligations under this Agreement existing at the time of death; and the obligations of the other guarantors will continue in full force and effect.

This Guarantee shall be interpreted and construed in accordance with **Section 27** of the Agreement (including but not limited to the waiver of punitive damages, waiver of jury trial, agreement to bring claims within one year, and agreement not to engage in class or common actions). Among other things, that means that this Guarantee shall be interpreted and construed exclusively under the laws of the State of New York, and that in the event of any conflict of law, New York law will prevail (without applying New York conflict of law rules).

IN WITNESS WHEREOF, each of the undersigned persons has signed this Guarantee as of the date of the Agreement.

\_\_\_\_\_  
(in his/her personal capacity)

Printed  
Name:\_\_\_\_\_

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

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

\_\_\_\_\_  
(in his/her personal capacity)

Printed  
Name:\_\_\_\_\_

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

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

\_\_\_\_\_  
(in his/her personal capacity)

Printed  
Name:\_\_\_\_\_

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

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

NATHAN'S FAMOUS SYSTEMS, INC.  
FRANCHISE AGREEMENT  
EXHIBIT C  
LIST OF PRINCIPALS

Name of Principal	Home Address	Interest %

Initials

\_\_\_\_\_   
Franchisee

\_\_\_\_\_   
Franchisor

NATHAN'S FAMOUS SYSTEMS, INC.  
FRANCHISE AGREEMENT  
EXHIBIT D

**AUTHORIZATION AGREEMENT FOR ACH PAYMENTS  
(DIRECT DEBITS FOR ROYALTY, MARKETING FUND CONTRIBUTION, AND OTHER FEES)**

\_\_\_\_\_ (Name of Person or Legal Entity)

\_\_\_\_\_ (ID Number)

The undersigned depositor ("**Depositor**" or "**Franchisee**") hereby authorizes Nathan's Famous Systems, Inc. ("**Franchisor**") to initiate debit entries and/or credit correction entries to the undersigned's checking and/or savings account(s) indicated below and the depository designated below ("**Depository**" or "**Bank**") to debit or credit such account(s) pursuant to our instructions.

\_\_\_\_\_ Depository

\_\_\_\_\_ Branch

\_\_\_\_\_ City

\_\_\_\_\_ State

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

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

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

This authorization is to remain in full and force and effect until sixty days after we have received written notification from Franchisee of its termination.

Printed Name  
of Depositor: \_\_\_\_\_

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

Printed Name: \_\_\_\_\_

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

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

NATHAN'S FAMOUS SYSTEMS, INC.  
FRANCHISE AGREEMENT  
EXHIBIT E  
ADA CERTIFICATION

Nathan's Famous Systems, Inc. ("**Franchisor**" or "**us**") and \_\_\_\_\_ ("**Franchisee**" or "**you**") are parties to a franchise agreement dated \_\_\_\_\_, 202\_\_\_\_ (the "**Franchise Agreement**") for the operation of a Franchised Business at \_\_\_\_\_ (the "**Franchised Business**").

- In accordance with Section 5.7 of the Franchise Agreement, you certify to us that, to the best of your knowledge, the Franchised Business and its adjacent areas comply with all applicable federal, state, and local accessibility laws, statutes, codes, rules, regulations, and standards, including but not limited to the Americans with Disabilities Act.
- You acknowledge that you are an independent contractor and the requirement of this certification by Franchisor does not constitute ownership, control, leasing, or operation of the Franchised Business.
- You acknowledge that we have relied on the information contained in this certification.
- You agree to indemnify us and our directors, officers, members, managers, and employees in connection with any and all claims, losses, costs, expenses, liabilities, compliance costs, and damages incurred by the indemnified party(ies) as a result of any matters associated with your compliance with the Americans with Disabilities Act, as well as the costs (including without limitation reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) related to the same.

Acknowledged and Agreed:

\_\_\_\_\_  
Franchisee:

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

Printed Name:\_\_\_\_\_

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

NATHAN'S FAMOUS SYSTEMS, INC.  
FRANCHISE AGREEMENT  
EXHIBIT F

SAMPLE FORM OF  
NON-DISCLOSURE AND NON-COMPETITION AGREEMENT  
*(to be signed by franchisee and its management/executive personnel)*

**THIS NON-DISCLOSURE AND NON-COMPETITION AGREEMENT** ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by and between \_\_\_\_\_ (the "**Franchisee**"), and \_\_\_\_\_, who is a Principal, manager, supervisor, member, partner, or a person in a managerial or executive position with, Franchisee (the "**Member**").

RECITALS:

**WHEREAS**, Nathan's Famous Systems, Inc. ("**NFSI**") owns a format and system (the "**System**") relating to the establishment and operation of "Nathan's Famous" restaurants operating in structures that bear NFSI's interior and exterior trade dress, and under its Proprietary Marks, as defined below (each, a "**Restaurant**");

**WHEREAS**, Each Restaurant will offer Proprietary Items (which include hot dogs manufactured with a proprietary spice formula) as well as non- Proprietary Items (such as hamburgers, crinkle cut french fries, assorted sandwiches, platters, and other food products) ("**Products**"), for on-premises and carry-out consumption of food products, as well as the retail sale of merchandising items, logo items and certain Proprietary Items;

**WHEREAS**, NFSI identifies "Nathan's Famous" Restaurants by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin (including for example the mark "Nathan's Famous") and certain other trade names, service marks, and trademarks that NFSI currently and may in the future designate in writing for use in connection with the System (the "**Proprietary Marks**");

**WHEREAS**, NFSI and Franchisee have executed a Franchise Agreement ("**Franchise Agreement**") granting Franchisee the right to operate a "Nathan's Famous" Restaurant (the "**Franchised Business**") and to offer and sell Products, Proprietary Items, services, and other ancillary products approved by NFSI and use the Proprietary Marks in connection therewith under the terms and conditions of the Franchise Agreement;

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

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

1. Confidential Information. Member shall not, during the term of the Franchise Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, entity, association, or corporation any confidential information, knowledge, or know-how concerning the methods of operation of the business franchised thereunder which may be communicated to Member or of which Member may be apprised by virtue of your operation under the terms of the Franchise Agreement. Any and all information, knowledge, know-how, and techniques which NFSI designates as confidential shall be deemed confidential for purposes of this

Agreement, except information which Franchisee can demonstrate came to its attention before disclosure thereof by NFSI; or which, at or after the time of disclosure by NFSI to Franchisee, had become or later becomes a part of the public domain, through publication or communication by others.

2. Covenants Not to Compete.

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

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

(i) Divert or attempt to divert any business or customer of the Franchised Business or of any Franchised Business using the System to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with NFSI's Proprietary Marks and the System; or

(ii) Either directly or indirectly for him/herself or on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity, own, maintain, operate, engage in, or have any interest in any business which is the same as or similar to the Franchised Business.

(c) Member covenants and agrees that during the Post-Term Period (defined below), except as otherwise approved in writing by NFSI, Member shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity, Member shall not own, maintain, operate, engage in, or have any interest in any business which is the same as or similar to the Franchised Business and which business is, or is intended to be, located within a three (3) mile radius of the Approved Location.

(d) As used in this Agreement, the term "same as or similar to the Franchised Business" shall include, but not be limited to, any business which features hot dogs and/or sausages as a principal menu item.

(e) As used in this Agreement, the term "Post-Term Period" shall mean a continuous uninterrupted period of two (2) years from the date of: (i) a transfer as contemplated under Section 16 of the Franchise Agreement; (ii) expiration or termination of the Franchise Agreement (regardless of the cause for termination); (iii) termination of Member's employment with Franchisee; and/or (iv) a final order of a duly authorized arbitrator, panel of arbitrators, or a court of competent jurisdiction (after all appeals have been taken) with respect to any of the foregoing or with respect to the enforcement of this Agreement; either directly or indirectly (through, on behalf of, or in conjunction with any persons, partnership, corporation or entity).

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

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

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

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

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

FRANCHISEE

MEMBER

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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

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

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

**Exhibit B**

**Kiosk and Mobile Unit Amendments to the Franchise Agreement**

**Exhibit B-1**

**Kiosk Amendment**

**KIOSK AMENDMENT  
TO NATHAN’S FAMOUS SYSTEMS, INC.  
FRANCHISE AGREEMENT**

This Kiosk Amendment (the “Amendment”) is made and entered into on \_\_\_\_\_, \_\_\_\_\_, by and between Nathan’s Famous Systems, Inc. (“Franchisor”) and \_\_\_\_\_ (“Franchisee”).

**WITNESSETH:**

WHEREAS, Franchisor and Franchisee have on this date entered into a franchise agreement (the “Agreement”) for the establishment of a Nathan’s Famous Restaurant (the “Restaurant”);

WHEREAS, Franchisor has developed a special, free-standing, indoor structure, utilizing modular technology, approximately 150 square feet in total size, decorated to meet Franchisor’s specifications (including the use of Franchisor’s trade dress, trademark, and design), featuring a limited menu, and utilizing Franchisor’s proprietary equipment for the preparation of food products (a “Kiosk”); and

WHEREAS, Franchisee desires to operate a Kiosk under Franchisor’s System and Franchisor is willing to permit same.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Whenever reference is made in the Agreement to:
  - a. the business franchised thereunder (including, but not limited to, the terms “franchised business” or “Restaurant”), the same shall be deemed to refer to the Kiosk (unless otherwise set forth in this Amendment).
  - b. the premises of the Restaurant or the franchised business, such reference shall include the Kiosk, the areas surrounding the Kiosk, and any storage area(s) that Franchisee uses in connection with operation of the Kiosk.
2. Section 1.2 of the Agreement shall be deleted in its entirety, and the following shall be inserted in lieu thereof:

The Kiosk shall be operated only at the following location, unless both Franchisor and Franchisee by written agreement designate an alternate location:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the “Approved Location”).

3. Section 2.2 of the Agreement shall be deleted in its entirety, and the following shall be inserted in lieu thereof:

Franchisee may, at its option, renew this Agreement for one (1) additional term which shall be for five (5) years, and shall be subject to the following conditions which must be met prior to renewal:

4. Section 2.2.2 of the Agreement shall be deleted in its entirety, and the following shall be inserted in lieu thereof:

Franchisee shall replace the Kiosk and the equipment installed therein with a new kiosk and equipment, or shall rebuild and restore the Kiosk to “like-new” condition, and such Kiosk and equipment (whether new or rebuilt) shall conform to Franchisor’s then-current standards and specifications applicable to kiosks, including without limitation, those standards and specifications relating to exterior facade, signs, fixtures, trade dress, color scheme, and presentation of the Proprietary Marks.

5. Section 2.2.6 of the Agreement shall be deleted in its entirety, and the following shall be inserted in lieu thereof:

Franchisee shall execute Franchisor’s then-current form of franchise agreement (as amended for the operation of kiosks), which agreement shall supersede this Agreement in all respects, and the terms of which may differ from the terms of this Agreement, including, without limitation, a higher percentage royalty fee and advertising contribution; and further, Franchisee shall not have to pay any renewal or initial franchise fee upon such renewal;

6. In Section 4.1 of the Agreement, the phrase “Thirty Thousand Dollars (\$30,000)” shall be deleted in its entirety, and the following shall be substituted in lieu thereof: “Fifteen Thousand Dollars (\$15,000).”

7. Section 5.11 of the Agreement shall be deleted in its entirety.

8. Section 5.12.1 of the Agreement shall be deleted in its entirety, and the following shall be inserted in lieu thereof:

To maintain in sufficient supply, and to use and/or sell at all times when the Kiosk is open for business, only such menu items, ingredients, products, materials, supplies, and paper goods as conform to Franchisor’s written standards and specifications for Kiosks, and to refrain from deviating therefrom by the use or offer of any non-conforming items, without Franchisor’s prior written consent.

9. In Section 12.2.2.6 of the Agreement, delete the language “the standard form franchise agreement” on line three, and insert in lieu thereof the following:

“the standard form franchise agreement (as amended by Franchisor to account for the operation of a Kiosk)”

10. In Section 12.2.2.10 of the Agreement, delete the language “equal to the greater of Four Thousand Five Hundred Dollars (\$4,500) or fifteen percent (15%) of the initial franchise fee then-being charged to new System franchisees” and insert in lieu thereof the following:

“Two Thousand Five Hundred Dollars (\$2,500).”

11. It is the intent of the parties that any proposed sale or transfer of the Kiosk shall be deemed a sale or transfer of “substantially all of the assets of the franchised business,” and thus shall be subject to the provisions of Section 12.4 of the Agreement.

12. Franchisee shall, at its own expense, obtain and maintain at all times the necessary permits and authorizations pertaining to the transportation, installation, operation, and maintenance of the Kiosk and the premises.

13. Franchisor and Franchisee hereby confirm the Agreement, as amended by this Amendment, and reaffirm their respective obligations under such Agreement, as such Agreement is amended by this Amendment. The parties agree that except as specifically set forth herein, the provisions of this Amendment shall be in addition to, and not in lieu of, the provisions of the Agreement.

14. Franchisor shall be the sole owner of all plans and specifications for the construction and/or modification of the Kiosk, including the copyrights thereto, and Franchisee agrees to execute any documents deemed necessary by Franchisor to implement this provision. Before hiring any person or company to construct or modify the Kiosk, Franchisee shall contact Franchisor to determine what documents, if any, are necessary to implement the provisions of this Section, and Franchisee shall obtain such parties’ signatures on the documents required by Franchisor before any construction or modification to the Kiosk is commenced.

15. Franchisee understands and acknowledges that Franchisor makes no representations or warranties as to the success of the Kiosk.

16. Franchisee shall not sell or otherwise transfer or dispose of the Kiosk (or any equipment used in the Surrounding Areas) without the prior written consent of Franchisor. If Franchisee desires to sell, transfer, or otherwise dispose of the Kiosk, Franchisee shall first offer to sell the Kiosk (and any equipment used in the Surrounding Areas) to Franchisor at a purchase price that shall be Franchisee’s cost of the Kiosk (and any equipment used in the Surrounding Areas), depreciated by the seven-year straight line depreciation method (but in no event will the purchase price be less than \$20,000).

17. If Franchisee has entered into an area development agreement with Franchisor, the establishment and operation of the Kiosk shall count as one-half (1/2) of a Restaurant: (a) for the purpose of determining whether the development schedule under such area development agreement has been satisfied; and (b) with respect to the credit, if any, provided under such agreement toward the initial franchise fee payable at the time when the Agreement is executed.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed, and delivered this Amendment in duplicate on the day and year first above written.

(Seal)

NATHAN'S FAMOUS SYSTEMS, INC.

Franchisor:

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

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

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

(Seal)

\_\_\_\_\_  
Franchisee:

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

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

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

**Exhibit B-2**

**Mobile Unit Amendment**

AMENDMENT  
TO NATHAN'S FAMOUS SYSTEMS, INC.  
FRANCHISE AGREEMENT

This Amendment (the "**Amendment**") is made this \_\_\_ day of \_\_\_\_\_ 20\_\_\_ by and between:

- Nathan's Famous Systems, Inc. ("**Franchisor**"); and
- [ \_\_\_\_\_ ] ("**Franchisee**").

*Introduction:*

*Franchisee wishes to operate a mobile "Nathan's Famous" restaurant from a vehicle that will operate within a defined area. For this purpose, Franchisee and Franchisor have entered into a franchise agreement dated as of the same date as this Amendment (the "**Franchise Agreement**") and wish to amend the terms of the Franchise Agreement as specified below.*

*Therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:*

1. Section 1.2 of the Franchise Agreement is deleted, and the following is inserted in its place:

*1.2 Franchisee shall operate the Restaurant from a specially-designed motor vehicle containing both kitchen and serving facilities (a "**Mobile Unit**"), pursuant to the terms and conditions set forth in this Franchise Agreement (as revised by this Amendment), and subject to all of the terms and conditions contained in the Agreement. The Mobile Unit shall be stored at the Base, may only be operated within the Mobile Unit Territory, and may only be used at Locations and at Events to which Franchisor has given its prior written approval under Section 5.30.10 of the Franchise Agreement. These terms are defined in Section 5.30.10 below.*

2. Section 2.1 of the Franchise Agreement is deleted, and the following is inserted in its place:

*Except as otherwise provided in this Agreement, the term of this Agreement will start on the date when this Agreement is signed by both parties, and will expire on the five (5) year anniversary of that date.*

3. The first sentence of Section 2.2 of the Franchise Agreement is deleted, and the following is inserted in its place:

*Upon the expiration of the initial term of this Agreement, Franchisee may renew this Agreement for one (1) additional term of five (5) years, subject to the following conditions which shall be met prior to renewal:*

4. Section 2.2.2 of the Franchise Agreement is deleted, and the following is inserted in its place:

*Franchisee shall make or provide for, in a manner satisfactory to Franchisor, such renovation, modernization, and/or replacement of the Mobile Unit as Franchisor may reasonably require, including but not limited to renovation, addition and/or replacement of the entire vehicle, the wrap, signs, equipment, fixtures, and improvements to any of the related and ancillary furniture that Franchisee uses at Locations;*

5. The following shall be added to the end of Section 2.2.6 of the Franchise Agreement:

*(and subject to the terms of this Amendment as well, however, Section 2.2 of this Franchise Agreement shall not apply at the end of the renewal term);*

6. Section 2.2.7 of the Franchise Agreement is deleted.
7. Sections 3.1 and 5.8 of the Franchise Agreement are revised to indicate that the training program for Franchisee with respect to the Mobile Unit will be an abbreviated one-week training class conducted at Franchisor's training facility.
8. Section 3.2 of the Franchise Agreement is deleted.
9. Section 3.3 of the Franchise Agreement is deleted.
10. Section 4.1 shall be amended by deleting the phrase "Thirty Thousand Dollars (\$30,000)" and inserting, instead, the following: "*Fifteen Thousand Dollars (\$15,000)*".
11. Section 5 of the Franchise Agreement shall be amended by adding the following Section 5.30, which shall supersede any contrary provisions in the Franchise Agreement:

**5.30 The Mobile Unit.**

5.30.1 *The vehicle identification number of the Mobile Unit is: [\_\_\_\_\_]. Franchisee agrees not to change the Mobile Unit without Franchisor's prior written approval.*

5.30.2 *Section 5.2 of the Franchise Agreement shall be deleted in its entirety and the following shall be inserted in its place: The Mobile Unit shall be a seventeen foot (17') van constructed in accordance with the Franchisor's standards and specifications. A copy of Franchisee's current plans for the Mobile Unit are attached to this Amendment at Exhibit A. Franchisor must approve the Mobile Unit before it may be used by Franchisee as a "restaurant" under the Agreement. Franchisee shall submit to Franchisor, for Franchisor's review and written approval, any changes to the current plans and specifications for the Mobile Unit at least thirty (30) days before implementation of the plans. As a condition of approval, Franchisor may require, and Franchisee agrees to provide, such additional information as Franchisor deems appropriate. Franchisee agrees that Franchisor and its agents shall have the right to inspect the*

*Mobile Unit to determine whether the construction complies with the final plans approved by Franchisor.*

- 5.30.3 *Franchisee shall be solely responsible for the cost of constructing and equipping the Mobile Unit, and for any modifications thereto required to meet the Franchisor's standards and specifications.*
- 5.30.4 *Franchisee agrees to maintain and operate the Mobile Unit in strict conformity with the terms and conditions set forth in the Franchise Agreement, and those requirements that Franchisor may prescribe from time to time in the Manual or otherwise in writing.*
- 5.30.5 *Franchisee shall ensure that the Mobile Unit is driven, moved, or otherwise transported with the highest degree of care and safety; and in connection therewith, Franchisee shall comply with such requirements that Franchisor may from time to time prescribe in the Manual or otherwise in writing, including, but not limited to all of the following:*

  - a. *Obtaining and keeping current, and/or requiring that employees who are authorized to drive or move the motor vehicle containing the Mobile Unit obtain and keep current, a valid driver's permit or license which at all times meets all requirements pertaining to the operation of the Mobile Unit on public roads within the Mobile Unit Territory (as defined below);*
  - b. *Requiring that at least one (1) person having a proper driver's license or permit, as described in this Section, be present in the Mobile Unit at all times; and*
  - c. *Ensuring that the Mobile Unit not be moved or transported in any manner, except by persons having a valid driver's license or permit, as described in this Section, and operating such motor vehicle in a safe and prudent manner which is in full compliance with the regulations applicable to driving and operating such motor vehicle within the Mobile Unit Territory.*
- 5.30.5 *Franchisee shall ensure that the Mobile Unit is constructed and maintained in the highest degree of safety, repair, cleanliness, and appearance; and in connection therewith, Franchisee shall comply with such requirements that Franchisor may from time to time prescribe in the Manual or otherwise in writing, including, but not limited to, all of the following:*

  - a. *Franchisee shall maintain the Mobile Unit in excellent working condition and as Franchisor reasonably requires. Franchisee accordingly agrees, without limiting the foregoing, to promptly effect repairs to the Mobile Unit to remedy or remove any graffiti, bumper stickers (except required permits or parking stickers), collision damage, surface scratches, dents, or similar damage. If such damage occurs, the Mobile Unit shall not be operated until repairs are*

*made, except to transport the Mobile Unit to a repair facility. Franchisor shall have the right to inspect the Mobile Unit from time to time and without prior notice to ensure that the vehicle is maintained in accordance with the terms of the Agreement.*

- b. Franchisee shall keep the Mobile Unit clean, and shall wash the exterior surfaces of the Mobile Unit and any interior surfaces that can be seen by the public at the start of every day that the Mobile Unit is in use.*
  - c. Franchisee shall not make, or allow any other person or entity to make, modifications to the Mobile Unit without Franchisor's prior written consent.*
  - d. In connection with any proposed modification of the Mobile Unit or construction of a replacement Mobile Unit, Franchisee shall submit to Franchisor, for its review and written approval, plans and specifications at least thirty (30) days prior to such modification or construction. Franchisee shall also submit to Franchisor a statement identifying the person or entity that Franchisee proposes to perform such modification or construction and describing such person's or entity's qualifications and financial responsibility. As a condition of approval, Franchisor will have the right to require, and Franchisee agrees to provide, such additional information as Franchisor deems appropriate. Franchisee agrees that Franchisor and its agents shall have the right to inspect the Mobile Unit at all reasonable times for the purpose of ascertaining that all modifications or construction work complies with the final plans approved by Franchisor.*
- 5.30.6 Franchisee shall at its own expense obtain and maintain at all times the necessary permits and authorizations pertaining to the transportation and operation of the Mobile Unit (and the Surrounding Areas, as described in Section 5.30.11 below) within the Mobile Unit Territory and, specifically, at each of the Locations.*
- 5.30.7 Franchisee shall store the Mobile Unit and any equipment used in the Surrounding Areas, when not in use, at the Base, which shall be a secure indoor garaged location within the Mobile Unit Territory.*
- 5.30.8 Franchisee shall use the Mobile Unit and any equipment used in the Surrounding Areas only for the purpose of serving menu items approved by Franchisor, and for no other purpose. No changes to the list of menu items approved by Franchisor may be made without the prior written consent of Franchisor.*
- 5.30.9 Franchisee shall display the Franchisor's Proprietary Marks (as that term is defined in the Agreement) on the Mobile Unit in the size and manner specifically approved by Franchisor for use on the Mobile Unit, including but not limited to a total vehicle "wrap" that Franchisor shall have the right to designate. Franchisee also agrees that it shall:*

- a. *Make no alterations to the approved representation of the Proprietary Marks on the Mobile Unit without Franchisor's express prior written consent.*
- b. *Display no other logos, trademarks, service marks on the Mobile Unit without Franchisor's express prior written consent (including but not limited to adding any signs, decals, bumper stickers, magnets, wrapping, or other such images).*
- c. *Permanently display on the Mobile Unit a conspicuous notice that the Mobile Unit is operated by Franchisee under a Franchise Agreement with Franchisor. The placement, size, and content of this notice shall be as required by Franchisor.*

5.30.10 *Franchisee shall serve food from the Mobile Unit only at fixed locations to which Franchisor has given its prior written approval. Franchisee agrees not to operate the Mobile Unit by driving in residential neighborhoods stopping at customers' request (as in the manner of an ice cream truck), nor to drive from one work site to another to serve food (in the manner of a lunch truck). For this purpose:*

- a. *Franchisee shall provide Franchisor with at least fifteen days' prior written notice (the "**Notice**") of every proposed location and/or event at which the Mobile Unit will be parked and serving food (together, "**Locations**"). The Notice shall be in such form as Franchisor may reasonably require, and shall include (without limitation) at least the following information relating to each Location: the exact address of the Location, a description of the position of the Mobile Unit at the Location in diagram form, the proposed hours and days of operation, a description of the Surrounding Areas (as defined below), and a description of any events anticipated to occur at or near the Location.*
- b. *If Franchisor does not provide to Franchisee approval of the Location(s) proposed in the Notice within seven days after receipt of the Notice from Franchisee, then the Location(s) proposed in the Notice shall be deemed disapproved. After approval of a Location by Franchisor, if there should be a change to the information provided in the Notice, Franchisee must obtain Franchisor's prior written approval before operating the Mobile Unit at the Location.*
- c. *Certain locations and events shall be deemed to be pre-approved Locations (however, Franchisor shall have the right to reasonably withdraw its approval for continued operation at these sites):*

\_\_\_\_\_;

\_\_\_\_\_;

\_\_\_\_\_; and

\_\_\_\_\_;

5.30.11 Franchisee shall obtain Franchisor's prior written approval of all operations at each Location that are ancillary to the operation of the Mobile Unit, including, but not limited to, the establishment of temporary seating areas, arrangements for rest rooms and sanitation services, and signs directing the public to the Mobile Unit (the "**Surrounding Areas**").

5.30.12 The Mobile Unit Territory. Franchisee shall operate the Mobile Unit only within the following area: [\_\_\_\_\_] (the "**Mobile Unit Territory**"), except that the parties agree that the Mobile Unit Territory shall exclude the following:

a. A two (2) mile radius from any existing or newly-established permanent "Nathan's Famous" restaurant that is located in the Mobile Unit Territory.

b. If Franchisee operates the Mobile Unit outside of the Mobile Unit Territory or at any Location not approved by Franchisor under Section 5.30.10, above, Franchisor shall have the right to terminate the Franchise Agreement immediately upon notice to Franchisee, without any opportunity to cure.

5.30.13 Franchisor shall be the sole owner of all plans and specifications for the construction and/or modification of the Mobile Unit, including the copyrights thereto, and Franchisee agrees to execute any documents deemed necessary by Franchisor to implement this provision and to provide to Franchisor signed documents of a similar nature from each person (or independent contractor) who worked on the plans for the Mobile Unit. Before hiring any person or company to construct or modify the Mobile Unit, Franchisee shall contact Franchisor to determine what documents, if any, are necessary to implement the provisions of this Section, and Franchisee shall obtain such parties' signatures on the documents required by Franchisor before any construction or modification to the Mobile Unit is commenced.

12. General Terms.

a. The parties agree that the Franchise Agreement is in full force and effect except as specifically revised by this Amendment.

b. Franchisee understands, acknowledges, and agrees that Franchisor makes no representations or warranties as to the success of the Mobile Unit.

**IN WITNESS WHEREOF**, the parties hereto have duly executed, sealed, and delivered this Amendment in duplicate on the day and year first above written.

Nathan's Famous Systems, Inc.

[Franchisee]

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

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

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

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

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

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

**Exhibit C**

**Area Development Agreement**

# **Nathan's Famous Systems, Inc.**

## **AREA DEVELOPMENT AGREEMENT**

NATHAN'S FAMOUS SYSTEMS, INC.  
AREA DEVELOPMENT AGREEMENT

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**NATHAN'S FAMOUS SYSTEMS, INC.  
AREA DEVELOPMENT AGREEMENT**

This Area Development Agreement (the "**Agreement**") is entered into on \_\_\_\_\_, \_\_\_\_\_, by and between Nathan's Famous Systems, Inc., a Delaware corporation with offices located at One Jericho Plaza - Wing A, 2nd Fl., Jericho, New York 11753 (the "**Franchisor**"), and \_\_\_\_\_ a \_\_\_\_\_ corporation with offices located at \_\_\_\_\_

\_\_\_\_\_ (the "**Area Developer**").

RECITALS:

WHEREAS, Franchisor, as the result of the expenditure of time, skill, effort, and money, has developed and owns a unique and distinctive format and system (the "**System**") relating to the establishment and operation of Nathan's Famous restaurants featuring, among other things, hot dogs manufactured with a proprietary spice formula, hamburgers, crinkle-cut french fries, assorted sandwiches, and platters;

WHEREAS, The distinguishing characteristics of the System include, without limitation, distinctive exterior and interior design, decor, color scheme, and furnishings; uniform standards, specifications, and procedures for operations; quality and uniformity of products and services offered; procedures for management and inventory control; training and assistance; and advertising and promotional programs; all of which may be changed, improved, and further developed by Franchisor from time to time;

WHEREAS, Franchisor identifies the System by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin, including but not limited to the marks "NATHAN'S FAMOUS" and logo, "SINCE 1916 NATHAN'S FAMOUS", and such other trade names, service marks, and trademarks as are now designated (and may hereinafter be designated by Franchisor in writing) for use in connection with the System (the "**Proprietary Marks**");

WHEREAS, Franchisor continues to develop, use, and control the use of such Proprietary Marks in order to identify for the public the source of services and products marketed thereunder and under the System, and to represent the System's high standards of quality, appearance, and service; and

WHEREAS, Area Developer wishes to obtain certain development rights to operate Nathan's Famous restaurants under Franchisor's System and wishes to obtain franchises from Franchisor for that purpose.

NOW, THEREFORE, the parties, in consideration of the undertakings and commitments of each party to the other party set forth herein, hereby agree as follows:

## 1. GRANT

1.1. Franchisor hereby grants development rights to Area Developer, and Area Developer accepts the obligation, pursuant to the terms and conditions of this Development Agreement, to develop \_\_\_\_\_ ( ) restaurants (hereinafter "**Restaurants**" or "**franchised businesses**") each to be operated under the System at specific locations to be designated in separate Nathan's Famous Systems, Inc. Franchise Agreements (hereinafter "**Franchise Agreements**") that shall be executed as provided in Section 3.1. hereof, and pursuant to the development schedule set forth in Paragraph 3 of Exhibit A, attached hereto (the "**Development Schedule**"). Each Restaurant developed hereunder shall be located in the area described in Paragraph 1 of Exhibit A, attached hereto (the "**Development Area**"); however, the parties hereto expressly acknowledge that the Development Area shall not include any non-traditional venues, including without limitation, toll roads, interstate highways, college campuses, hospitals, sports arenas/stadiums, convention centers, office buildings, discount department stores, home improvement centers, service station/convenience stores, or airports located within the area described in Paragraph 1 of Exhibit A hereto.

1.2. Each Restaurant for which a development right is granted hereunder shall be established and operated pursuant to a separate Franchise Agreement to be entered into between Area Developer and Franchisor in accordance with Section 3.1. hereof.

1.3. So long as Area Developer is in compliance with its obligations under this Agreement, Franchisor shall not establish, nor license anyone other than Area Developer to establish, a Restaurant under the System in the Development Area, until the last date specified in the Development Schedule. Franchisor retains all rights not specifically granted to Area Developer, including, for example, the right: (i) to use and license others to use the System and Proprietary Marks for the operation of "Nathan's Famous" restaurants at any location outside the Development Area; (ii) to acquire and operate businesses of any kind at any location within or outside of the Development Area (excluding Restaurants operated under the System within the Development Area); (iii) to use and license others to use the System and/or Proprietary Marks at any location within or outside of the Development Area other than for the operation of a "Nathan's Famous" restaurant; and (iv) to use and license others to use marks other than the Proprietary Marks in connection with the operation of restaurants at any location within or outside of the Development Area, which restaurants are the same as, similar to, or different from the Restaurants; all on terms and conditions as Franchisor deems advisable, and without granting Area Developer any rights therein.

1.4. Area Developer understands (in addition to the provisions of Section 1.3) that certain of Franchisor's packaged products may be distributed by Franchisor, Franchisor's affiliates, or Franchisor's designees, through packages or over-the-counter under the "Nathan's Famous" proprietary marks at groceries, supermarkets, and similar retail outlets (the "Grocery Products"). Similarly, Franchisor, its corporate parents, affiliates, or their respective designees may now or in the future, distribute or sell "Nathan's Famous" products (*e.g.*, hot dogs) in a wholesale bulk package ("Bulk Products") for consumption at stadiums, sports arenas, theme parks, institutional feeding facilities, military bases, and airports ("Captive Market Accounts"). Area Developer understands that this Agreement does not grant Area Developer any rights with regard to such Packaged Products, Bulk Products, or future-developed Packaged Products or Bulk Products, which are now or may be distributed through groceries, supermarkets, and similar retail outlets, or to Captive Market Accounts.

1.5. This Agreement is not a franchise agreement, and does not grant to Area Developer any right to use in any manner Franchisor's Proprietary Marks or System.

1.6. Area Developer shall have no right under this Agreement to license others to use in any manner the Proprietary Marks or System.

1.7. In the event that Area Developer, with the approval of Franchisor, establishes a kiosk-Restaurant ("Kiosk") or a mobile unit Restaurant ("Mobile Unit"), such Restaurants will not count towards Area Developer's obligations under the Development Schedule to develop a certain total number of Restaurants.

## 2. **DEVELOPMENT FEE**

In consideration of the development rights granted herein, Area Developer has paid to Franchisor upon execution of this Agreement a development fee in the amount described in Paragraph 2 of Exhibit A, attached hereto (the "**Development Fee**"). The Development Fee has been fully earned and is non-refundable in consideration of administrative and other expenses incurred by Franchisor and for the development opportunities lost or deferred as a result of the rights granted Area Developer herein.

## 3. **DEVELOPMENT OBLIGATIONS**

3.1. Area Developer shall execute a Franchise Agreement for each Restaurant at a site approved by Franchisor in the Development Area as hereinafter provided (the "Approved Location"). The Franchise Agreement for the first Restaurant developed hereunder shall be in the form of the Franchise Agreement attached hereto as Exhibit C. The Franchise Agreement for each additional Restaurant developed hereunder shall be the form of Franchise Agreement being offered generally by Franchisor at the time each such Franchise Agreement is executed. If the Restaurant will be operated from a Kiosk or Mobile Unit, then Area Developer shall also execute a Kiosk amendment or Mobile Unit amendment to the Franchise Agreement, as the case may be. The Franchise Agreement for each Restaurant shall be executed by Area Developer and submitted to Franchisor within fifteen (15) days of receipt of Franchisor's written notice of site approval. If the Area Developer is in full compliance with this Agreement, then, notwithstanding anything to the contrary in any of the franchise agreements, the initial franchise fee to be paid by Area Developer shall be Thirty Thousand Dollars (\$30,000) for each franchise agreement executed by Area Developer for Restaurants to be located in the Development Area during the term of this Agreement.

3.2. For each proposed site for a Restaurant, Area Developer must submit to Franchisor, in the form specified by Franchisor, a completed Site Approval Package, and such other information or materials as Franchisor may reasonably require. Area Developer must submit such Site Approval Package, information, and materials by no later than two hundred and forty (240) days before the date on which the Restaurant must open, as listed in the Development Schedule. Notwithstanding the foregoing, Area Developer must obtain site approval from Franchisor for the first Restaurant to be developed hereunder within six (6) months of the date of this Agreement. In the event Franchisor approves a proposed site, Franchisor shall send written notice of approval to Area Developer within said thirty (30) days. In the event no such notice is sent by Franchisor to Area Developer within the said thirty (30) days, then such site shall be deemed disapproved by Franchisor. Within thirty (30) days of site approval by Franchisor, Area Developer shall execute a lease, after obtaining Franchisor's approval, or a binding agreement to purchase the site, subject only to Area Developer obtaining any necessary zoning variances, building or use permits.

3.3. If Area Developer will occupy the premises from which the franchised business is conducted under a lease, Area Developer shall, prior to the execution thereof, submit such site and lease to Franchisor for its approval. Franchisor's approval of the lease may be conditioned upon the inclusion in the lease of such provisions as Franchisor may reasonably require.

3.4. Recognizing that time is of the essence, Area Developer agrees to satisfy the Development Schedule. Failure by Area Developer to adhere to the Development Schedule, or failure by Area Developer to submit a completed Site Approval Package and obtain Franchisor's approval thereof within the time specified in Section 3.2 hereof shall constitute a default under this Agreement as provided in Section 6.2 hereof.

#### 4. **TERM**

Unless sooner terminated in accordance with the terms of this Agreement, the term of this Agreement and all rights granted hereunder shall expire on the date when Area Developer has open and in operation all of the Restaurants required by the Development Schedule.

#### 5. **DUTIES OF THE PARTIES**

5.1. For each Restaurant developed hereunder Franchisor shall furnish to Area Developer the following:

5.1.1. Site selection guidelines, including Franchisor's minimum standards for a location for the franchised business, and such site selection counseling and assistance as Franchisor may deem advisable.

5.1.2. Such on-site evaluation as Franchisor may deem advisable in response to Area Developer's request for site approval; provided, however, that Franchisor shall not provide on-site evaluation for any proposed site prior to the receipt of a completed Site Approval Package for such site prepared by Area Developer pursuant to Section 3.2 hereof. Franchisor shall provide one (1) on-site evaluation at no charge to Area Developer for each Restaurant required to be developed pursuant to the Development Schedule. For any additional on-site evaluation, Area Developer shall reimburse Franchisor for all reasonable expenses incurred by Franchisor in connection with such on-site evaluation, including, without limitation, the costs of travel, lodging, wages, and meals.

5.2. Area Developer accepts the following obligations:

5.2.1. An Area Developer which is a corporation shall comply, except as otherwise approved in writing by Franchisor, with the following requirements throughout the term of this Agreement:

5.2.1.1. Area Developer shall furnish Franchisor with its Articles of Incorporation, Bylaws, other governing documents, any other documents Franchisor may reasonably request, and any amendments thereto.

5.2.1.2. Area Developer shall confine its activities, and its governing documents, if any, shall at all times provide that its activities are confined, exclusively to the management and operation of the business contemplated hereunder, including the establishment and operation of the Restaurants to be developed hereunder.

5.2.1.3. Area Developer shall maintain stop transfer instructions against the transfer on its records of any voting securities; and shall issue no certificates for voting securities upon the face of which the following printed legend does not legibly and conspicuously appear:

The transfer of this stock is subject to the terms and conditions of an Area Development Agreement with Nathan's Famous Systems, Inc., dated \_\_\_\_.

Reference is made to the provisions of the said Development Agreement and to the Articles and Bylaws of this Corporation.

5.2.1.4. Area Developer shall maintain a current list of all owners of record and all beneficial owners of any class of voting stock of Area Developer and shall furnish the list to Franchisor upon request.

5.2.2. An Area Developer which is a partnership shall comply, except as otherwise approved in writing by Franchisor, with the following requirements throughout the term of this Agreement:

5.2.2.1. Area Developer shall furnish Franchisor with its partnership agreement as well as such other documents as Franchisor may reasonably request, and any amendments thereto.

5.2.2.2. Area Developer shall prepare and furnish to Franchisor, upon request, a list of all general and limited partners in Area Developer.

5.2.3. Area Developer shall at all times preserve in confidence any and all materials and information furnished or disclosed to Area Developer by Franchisor, and shall disclose such information or materials only to such of Area Developer's employees or agents who must have access to it in connection with their employment. Area Developer shall not at any time, without Franchisor's prior written consent, copy, duplicate, record, or otherwise reproduce such materials or information, in whole or in part, nor otherwise make the same available to any unauthorized person.

5.2.4. Area Developer shall comply with all requirements of federal, state, and local laws, rules, and regulations.

5.2.5. Upon the opening of Area Developer's \_\_\_th (\_\_th) Restaurant, and for each multiple thereof, Area Developer shall employ at least one full-time supervisor, who shall meet such standards as may be reasonably imposed by Franchisor in the manual or otherwise in writing to supervise and coordinate the operation of the Restaurant.

## 6. **DEFAULT**

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

6.2. If Area Developer fails to meet its obligations under the Development Schedule, such action shall constitute a default under this Agreement, upon which Franchisor, in its discretion, may terminate this Agreement and all rights granted hereunder without affording Area Developer any opportunity to cure the default, effective immediately upon the delivery of written notice to Area Developer (in the manner set forth in Section 9 of this Agreement).

6.3. Except as otherwise provided in Sections 6.1 and 6.2, above, if Area Developer fails to comply with any material term and condition of this Agreement, or fails to comply with the terms and conditions of any franchise agreement or development agreement between the Area Developer (or a person or entity affiliated with or controlled by the Area Developer) and the Franchisor, such action shall constitute a default under this Agreement. Upon the occurrence of any such default, Franchisor may terminate this Agreement by giving written notice of termination stating the nature of such default to Area Developer at least fifteen (15) days prior to the effective date of termination; provided, however, that Area Developer may avoid termination by immediately initiating a remedy to cure such default, curing it to Franchisor's satisfaction, and by promptly providing proof thereof to Franchisor within the fifteen-day period. If any such default is not cured within the specified time, or such longer period as applicable law may require, this Agreement and all rights granted hereunder (including but not limited to, the right to develop new Restaurants) will terminate without further notice to Area Developer effective immediately upon the expiration of the fifteen (15) day period or such longer period as applicable law may require.

6.4. Upon termination of this Agreement, Area Developer shall have no right to establish or operate any Nathan's Famous Restaurants for which a Franchise Agreement has not been executed by Franchisor at the time of termination. Thereafter, Franchisor shall be entitled to establish, and to license others to establish, Nathan's Famous Restaurants in the Development Area except as may be otherwise provided under any Franchise Agreement which has been executed between Franchisor and Area Developer.

6.5. No default under this Area Development Agreement shall constitute a default under any Franchise Agreement between the parties hereto.

6.6. No right or remedy herein conferred upon or reserved to Franchisor is exclusive of any other right or remedy provided or permitted by law or equity.

## 7. **TRANSFERS**

7.1. Transfer by Franchisor: Franchisor shall have the right to transfer or assign all or any part of its rights or obligations herein to any person or legal entity.

### 7.2. Transfer by Area Developer:

7.2.1. Area Developer understands and acknowledges that the rights and duties set forth in this Agreement are personal to Area Developer, and that Franchisor has granted this Agreement in reliance on the business skill, financial capacity, and personal character of Area Developer or the owners of Area Developer. Accordingly, neither Area Developer nor any immediate or remote successor to any part of Area Developer's interest in this Agreement, nor any individual, partnership, corporation, or other legal entity which directly or indirectly owns any interest in this Agreement shall sell, assign, transfer, convey, give away, pledge, mortgage, or otherwise encumber any direct or indirect interest in this Agreement or in Area Developer (including any direct or indirect interest in a corporate or partnership Area Developer) or in substantially all of the assets of the franchised business, without the prior written consent of Franchisor. Any purported assignment or transfer, by operation of law or otherwise, not having the written consent of Franchisor required by this Section 7.2.1 shall be null and

void and shall constitute a material breach of this Agreement, for which Franchisor may then terminate without opportunity to cure pursuant to Section 6.2 of this Agreement.

7.2.2. Franchisor shall not unreasonably withhold its consent to a transfer of any direct or indirect interest in Area Developer, this Agreement, or the material rights and obligations of Area Developer hereunder; provided, that if any transfer, alone or together with other previous, simultaneous, or proposed transfers, would have the effect of transferring a controlling interest in the Area Developer, this Agreement, or assigning any material right or obligation of Area Developer hereunder, Franchisor may, in its sole discretion, require any or all of the following as conditions of its approval:

7.2.2.1. All obligations and all other outstanding obligations to Franchisor and its affiliates shall have been satisfied;

7.2.2.2. Area Developer is not in default of any provision of this Agreement (including, but not limited to, the Development Schedule), any amendment hereof or successor hereto, or any other agreement between Area Developer and Franchisor, or its affiliates;

7.2.2.3. The transferor shall have executed a general release under seal, in a form satisfactory to Franchisor, of any and all claims against Franchisor and/or Franchisor's officers, directors, shareholders, and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state, and local laws, rules, and ordinances;

7.2.2.4. The transferee shall enter into a written assignment, under seal and in a form satisfactory to Franchisor, assuming and agreeing to discharge all of Area Developer's obligations under this Agreement;

7.2.2.5. The transferee shall demonstrate to Franchisor's satisfaction that it can meet Franchisor's educational, managerial, and business standards; possesses a good moral character, business reputation, and credit rating; has the aptitude and ability to conduct the business contemplated herein (as may be evidenced by prior related business experience or otherwise); and has adequate financial resources and capital to operate the business;

7.2.2.6. If the transferee is a corporation, then such owners of a beneficial interest in the transferee as Franchisor may request shall execute a guarantee of the performance of Area Developer's obligations under this Agreement in the form attached hereto as Exhibit B;

7.2.2.7. Area Developer and any guarantor of this Agreement shall remain liable for all of the obligations to Franchisor which arose in connection with this Agreement hereunder prior to the effective date of the transfer, and shall execute any and all instruments reasonably requested by Franchisor to evidence such liability;

7.2.2.8. Area Developer shall pay a transfer fee in an amount equal to the greater of Four Thousand Five Hundred Dollars (\$4,500) or fifteen percent (15%) of the initial franchise fee then-being charged to new System franchisees, for Franchisor's legal, accounting, training, and other expenses incurred in connection with the transfer. However, in the case of a transfer to a newly-formed corporation, formed solely for the convenience of ownership, no such transfer fee shall be required;

7.2.2.9. The transferor shall have first offered to sell such interest to Franchisor, pursuant to Section 7.4 hereof; and

7.2.2.10. The transferor shall abide by the requirements of Section 8 hereof regarding covenants not to compete, and shall execute such documents as Franchisor may reasonably require in order to give effect to this provision.

7.2.3. Area Developer shall grant no security interest in any of the assets of the business contemplated hereunder unless the secured party agrees that in the event of any default by Area Developer under any documents related to the security interest, Franchisor shall have the right and option to be substituted as obligor to the secured party and to cure any default of Area Developer, except that any acceleration of indebtedness due to the default shall be void.

7.2.4. Area Developer acknowledges and agrees that each condition which must be met by the transferee is necessary to assure such transferee's full performance of the obligations hereunder.

7.3. Offer of Securities by Area Developer:

All materials required for any offer or sale of securities of Area Developer (or any entity that owns or is affiliated with Area Developer) by federal or state law shall be submitted to Franchisor for review, approval, and consent prior to their being filed with any government agency; and any materials to be used in any exempt offering shall be submitted to Franchisor for review, approval, and consent prior to their use. No Area Developer offering shall imply (by use of the Proprietary Marks or otherwise) that Franchisor is participating as an underwriter, issuer, or offeror of Area Developer's or Franchisor's securities; and Franchisor's review of any offering shall be limited solely to the subject of the relationship between Area Developer and Franchisor. Area Developer and the other participants in the offering must fully indemnify Franchisor in connection with the offering. For each proposed offering, Area Developer shall pay Franchisor a non-refundable fee equal to the greater of Five Thousand Dollars (\$5,000) or fifteen percent (15%) of the initial franchise fee then-being charged to new System franchisees, in order to reimburse Franchisor for its reasonable costs and expenses associated with reviewing the proposed offering, including, without limitation, legal and accounting fees. Area Developer shall give Franchisor written notice at least thirty (30) days prior to the date of commencement of any offering or other transaction covered by this Section 7.3. Any such offering shall be subject to Franchisor's right of first refusal, as set forth in Section 7.4 hereof.

7.4. Right of First Refusal:

7.4.1. Any party: (a) holding any interest in Area Developer, the transfer of which interest (alone, or taken together with any previous or planned transfer) would have the effect of transferring control of Area Developer; (b) holding any interest in substantially all of the assets of Area Developer; or (c) proposing to transfer a material right or obligation arising hereunder; who desires to accept any bona fide offer from a third party to purchase such right, obligation, or interest, shall notify Franchisor in writing of each such offer, and shall provide such information and documentation relating to the offer as Franchisor may require, including, but not limited to, a franchisee application completed by the prospective purchaser. Franchisor shall have the right and option, exercisable within thirty (30) days after receipt of such written notification, to send written notice to the seller that Franchisor intends to purchase the seller's right, obligation, or interest on the same terms and conditions offered by the third party. In the event that Franchisor elects to purchase the seller's right, obligation, or interest, closing on such purchase must occur within thirty (30) days from the date of notice to the seller of the election to purchase by Franchisor. Any material change in the terms of any offer prior to closing shall constitute a new offer subject to the same rights of first refusal by Franchisor as in the case of an initial offer. Failure of Franchisor to exercise the option afforded by this Section 7.4 shall not constitute a waiver of any other

provision of this Agreement, including all of the requirements of this Section 12, with respect to a proposed transfer.

7.4.2. In the event the consideration, terms, and/or conditions offered by a third party are such that Franchisor may not reasonably be required to furnish the same consideration, terms, and/or conditions, then Franchisor may purchase the interest proposed to be sold for the reasonable equivalent in cash. If the parties cannot agree within a reasonable time on the cash consideration, an independent appraiser shall be designated by Franchisor, and said appraiser's determination shall be binding.

7.5. Transfer Upon Death or Mental Incapacity:

Upon the death or mental incapacity of any person with an interest in the Area Developer, the transfer of which interest would have the effect of transferring control of the Area Developer, the executor, administrator, or personal representative of such person shall transfer within six (6) months after such death or mental incapacity, his interest to a third party approved by Franchisor. Such transfers, including, without limitation, transfers by devise or inheritance, shall be subject to the same conditions as any *inter vivos* transfer. However, in the case of transfer by devise or inheritance, if the heirs or beneficiaries of any such person are unable to meet the conditions in this Section 7, the personal representative of the deceased shall have a reasonable time to dispose of the deceased's interest, which disposition shall be subject to all the terms and conditions for transfers contained in this Agreement. If the interest is not disposed of within a reasonable time, Franchisor may terminate this Agreement.

7.6. Non-Waiver of Claims:

Franchisor's consent to a transfer of any interest in this Agreement granted herein shall not constitute a waiver of any claims it may have against the transferring party, nor shall it be deemed a waiver of Franchisor's right to demand exact compliance with any of the terms of this Agreement by the transferee.

8. COVENANTS

8.1. Area Developer covenants that during the term of this Agreement except as otherwise approved in writing by Franchisor, Area Developer (or, if Area Developer is a corporation or partnership, a principal of Area Developer approved by Franchisor) shall devote full time, energy, and best efforts to the management and operation of the business contemplated hereunder, including the establishment and operation of the Restaurants to be developed hereunder.

8.2. Area Developer specifically acknowledges that, pursuant to this Agreement, Area Developer will receive valuable specialized training and confidential information, including, without limitation, information regarding the site selection, operational, sales, promotional, and marketing methods and techniques of Franchisor and the System, and that Area Developer has the exclusive right and obligation to identify sites and develop the Development Area for the benefit of the System. Area Developer covenants that during the term of this Agreement, except as otherwise approved in writing by Franchisor, Area Developer shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, or corporation:

8.2.1. Divert or attempt to divert any business or customer of any Restaurant using the System to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with Franchisor's Proprietary Marks and the System.

8.2.2. Unless released in writing by the employer, employ or seek to employ any person who is at that time employed by Franchisor or by any other franchisee or area developer of Franchisor, or otherwise directly or indirectly induce such person to leave his or her employment.

8.3. Area Developer covenants that, except as otherwise approved in writing by Franchisor, Area Developer shall not, during the term of this Agreement, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, or corporation, own, maintain, operate, engage in, or have any interest in any business which is the same as or similar to the business contemplated hereunder which is located within the Development Area, other than those Restaurants provided for in the Development Schedule; and shall not for a continuous uninterrupted period of two (2) years from the date of: (a) a transfer permitted under Section 7, above; (b) the expiration or termination of this Agreement (regardless of the cause for termination); or (c) a final order of a duly authorized arbitrator, panel of arbitrators, or a court of competent jurisdiction (after all appeals have been taken) with respect to any of the foregoing or with respect to the enforcement of this Section 8.3; either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any persons, partnership, or corporation, own, maintain, operate, engage in, or have any interest in any business which is the same as or similar to the business contemplated hereunder and which business is, or is intended to be, located within a three-mile radius of: (a) any Restaurant that Developer (or any of Developer's affiliates) operated pursuant to a Franchise Agreement; and/or (b) any Restaurant then using the System.

8.4. Section 8.3 hereof shall not apply to ownership by Area Developer of less than one percent (1%) beneficial interest in the outstanding equity securities of any publicly-held corporation. As used in this Agreement, the term "**publicly-held corporation**" shall be deemed to refer to a corporation which has securities that have been registered under the federal Securities Exchange Act of 1934.

8.5. At Franchisor's request, Area Developer shall require and obtain execution of covenants similar to those set forth in this Section 8 (including covenants applicable upon the termination of a person's relationship with Area Developer) from any or all of the following persons: (1) all officers, directors, and holders of a beneficial interest of five percent (5%) or more of the securities of Area Developer, and of any corporation directly or indirectly controlling Area Developer, if Area Developer is a corporation; and (2) the general partners (including any corporation, and the officers, directors, and holders of a beneficial interest of five percent (5%) or more of the securities of any corporation which controls, directly or indirectly, any general partner), if Area Developer is a partnership. Every covenant required by this Section 8.5 shall be in a form satisfactory to Franchisor, including, without limitation, specific identification of Franchisor as a third party beneficiary of such covenants with the independent right to enforce them. Failure by Area Developer to obtain execution of a covenant required by this Section 8.5 shall constitute a default under Section 6.2 hereof.

8.6. The parties agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Section 8 is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which Franchisor is a party, Area Developer expressly agrees to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Section 8.

8.7. Area Developer understands and acknowledges that Franchisor shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in this Section, or any portion thereof, without Area Developer's consent, effective immediately upon receipt by Area Developer of written notice thereof; and Area Developer agrees that it shall comply forthwith with any covenant as so modified, which shall be fully enforceable notwithstanding the provisions of Section 13 hereof.

8.8. Area Developer expressly agrees that the existence of any claims it may have against Franchisor, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by Franchisor of the covenants in this Section 8. Area Developer agrees to pay all costs and expenses (including reasonable attorneys' fees) incurred by Franchisor in connection with the enforcement of this Section 8.

8.9. Area Developer acknowledges that Area Developer's violation of the terms of this Section 8 would result in irreparable injury to Franchisor for which no adequate remedy at law may be available, and Area Developer accordingly consents to the issuance of an injunction prohibiting any conduct by Area Developer in violation of the terms of this Section 8.

## 9. **NOTICES**

Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by registered mail, or by other means which affords the sender evidence of delivery, or of rejected delivery, to the respective parties at the addresses shown on the signature page, unless and until a different address has been designated by written notice to the other party. Any notice by a means which affords the sender evidence of delivery, or rejected delivery, shall be deemed to have been given at the date and time of receipt or rejected delivery. Franchisor's operations manual, any changes that Franchisor makes to the operations manual, and/or any other written instructions that Franchisor provides relating to operational matters, are not considered to be "notices" for the purpose of the delivery requirements in this Section 9.

## 10. **PERMITS AND COMPLIANCE WITH LAWS**

10.1. Area Developer shall comply with all federal, state, and local laws, rules, and regulations, and shall timely obtain any and all permits, certificates, or licenses necessary for the full and proper conduct of the business contemplated under this Agreement.

10.2. Area Developer shall notify Franchisor in writing within five (5) days of the commencement of any action, suit, or proceeding, and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, which may adversely affect the operation or financial condition of Area Developer and/or any franchised business established pursuant to this Agreement.

## 11. **INDEPENDENT CONTRACTOR AND INDEMNIFICATION**

11.1. It is understood and agreed by the parties hereto that this Agreement does not create a fiduciary relationship between them, that Area Developer shall be an independent contractor, and that nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose whatsoever.

11.2. At all times during the term of this Agreement, Area Developer shall hold itself out to the public as an independent contractor operating pursuant to this Agreement. Area Developer agrees to take such action as may be necessary to do so, including, without limitation, exhibiting a notice of that fact in a conspicuous place in the Area Developer's offices, the content of which Franchisor reserves the right to specify.

11.3. It is understood and agreed that nothing in this Agreement authorizes Area Developer to make any contract, agreement, warranty, or representation on Franchisor's behalf, or to incur any debt or other obligation in Franchisor's name; and that Franchisor shall in no event assume liability for, or be

deemed liable hereunder as a result of, any such action; nor shall Franchisor be liable by reason of any act or omission of Area Developer in Area Developer's operations hereunder, or for any claim or judgment arising therefrom against Area Developer or Franchisor.

11.4. Area Developer shall, to the fullest extent permissible under applicable law, indemnify and hold Franchisor, Franchisor's corporate parents and affiliates, and their respective officers, directors, employees, and agents, harmless against any and all claims arising directly or indirectly from, as a result of, or in connection with Area Developer's operation of the business contemplated hereunder, as well as the costs, including attorneys' fees, of defending against them.

## 12. **APPROVALS AND WAIVERS**

12.1. Whenever this Agreement requires the prior approval or consent of Franchisor, Area Developer shall make a timely written request to Franchisor therefor, and such approval or consent must be obtained in writing.

12.2. Franchisor makes no warranties or guarantees upon which Area Developer may rely, and assumes no liability or obligation to Area Developer, by providing any waiver, approval, consent, or suggestion to Area Developer in connection with this Agreement, or by reason of any neglect, delay, or denial of any request therefor.

12.3. No delay, waiver, omission, or forbearance on the part of Franchisor to exercise any right, option, duty, or power arising out of any breach or default by Area Developer under any of the terms, provisions, covenants, or conditions hereof, shall constitute a waiver by Franchisor to enforce any such right, option, duty, or power as against Area Developer, or as to subsequent breach or default by Area Developer. Subsequent acceptance by Franchisor of any payments due to it hereunder shall not be deemed to be a waiver by Franchisor of any preceding breach by Area Developer of any terms, provisions, covenants, or conditions of this Agreement.

## 13. **ENTIRE AGREEMENT AND AMENDMENT**

This Agreement and the documents referred to herein constitute the entire, full, and complete Agreement between Franchisor and Area Developer concerning the subject matter hereof, and supersede all prior agreements, no other representations having induced Area Developer to execute this Agreement. However, and notwithstanding the foregoing, nothing in this Agreement is intended to disclaim any representations made by Franchisor in the Franchise Disclosure Document that Franchisor furnished to Developer. No amendment, change, or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

## 14. **SEVERABILITY AND CONSTRUCTION**

14.1. Except as expressly provided to the contrary herein, each portion, section, part, term, and/or provision of this Agreement shall be considered severable; and if, for any reason, any section, part, term, and/or provision herein is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court or agency having valid jurisdiction, such shall not impair the operation of, or have any other effect upon, such other portions, sections, parts, terms, and/or provisions of this Agreement as may remain otherwise intelligible; and the latter shall continue to be given full force and effect and bind the parties hereto; and said invalid portions, sections, parts, terms, and/or provisions shall be deemed not to be a part of this Agreement.

14.2. Except as expressly provided to the contrary herein, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than Area Developer, Franchisor, Franchisor's officers, directors, and employees, and such of Area Developer's and Franchisor's respective successors and assigns as may be contemplated (and, as to Area Developer, permitted) by Section 7 hereof, any rights or remedies under or by reason of this Agreement.

14.3. Area Developer expressly agrees to be bound by any promise or covenant imposing the maximum duty permitted by law which is subsumed within the terms of any provision hereof, as though it were separately articulated in and made a part of this Agreement, that may result from striking from any of the provisions hereof any portion or portions which a court may hold to be unenforceable in a final decision to which Franchisor is a party, or from reducing the scope of any promise or covenant to the extent required to comply with such a court order.

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

14.5. All provisions of this Agreement which, by their terms or intent, are designed to survive the expiration or termination of this Agreement, shall so survive the expiration and/or termination of this Agreement.

14.6. Each party represents and warrants to the other it is not under any contractual or other legal obligation that would restrict said party from entering into this Agreement, performing its obligations, and/or exercising its rights in the manner provided under this Agreement.

## 15. APPLICABLE LAW

15.1. This Agreement takes effect upon its acceptance and execution by Franchisor, and shall be interpreted and construed exclusively under the laws of the State of New York, which laws shall prevail in the event of any conflict of law (without regard to, and without giving effect to, the application of New York choice of law rules); provided, however, that if the covenants in Section 8 of this Agreement would not be enforceable under the laws of New York, and Area Developer is located outside of New York, then such covenants shall be interpreted and construed under the laws of the state in which the Area Developer's principal place of business is located. Nothing in this Section 15.1 is intended by the parties to subject this Agreement to any franchise or similar law, rule, or regulation of the State of New York to which this Agreement would not otherwise be subject.

15.2. The parties agree that any action brought by Area Developer against Franchisor in any court, whether federal or state, shall be brought within such state and in the judicial district in which Franchisor has its principal place of business. Any action brought by Franchisor against Area Developer in any court, whether federal or state, may be brought within the state and judicial district in which Franchisor has its principal place of business. The parties agree that this Section 15.2 shall not be construed as preventing either party from removing an action from state to federal court. Area Developer hereby waives all questions of personal jurisdiction or venue for the purpose of carrying out this provision. Any such action shall be conducted on an individual basis, and not as part of a consolidated, common, or class action.

15.3. No right or remedy conferred upon or reserved to Franchisor or Area Developer by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

15.4. Nothing herein contained shall bar Franchisor's right to obtain injunctive relief against threatened conduct that will cause it loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

15.5. **FRANCHISOR AND AREA DEVELOPER IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING. ANY AND ALL CLAIMS AND ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE RELATIONSHIP OF AREA DEVELOPER AND FRANCHISOR, OR AREA DEVELOPER'S OPERATION OF THE BUSINESS CONTEMPLATED HEREUNDER, BROUGHT BY ANY PARTY HERETO AGAINST THE OTHER, SHALL BE COMMENCED WITHIN ONE (1) YEAR FROM THE OCCURRENCE OF THE FACTS GIVING RISE TO SUCH CLAIM OR ACTION, OR SUCH CLAIM OR ACTION SHALL BE BARRED.**

15.6. **FRANCHISOR AND AREA DEVELOPER HEREBY WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM OF ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER, AND AGREE THAT IN THE EVENT OF A DISPUTE BETWEEN THEM EACH SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED BY IT.**

16. **ACKNOWLEDGMENTS**

16.1. Area Developer acknowledges that it has conducted an independent investigation of the business contemplated hereunder, recognizes that the business venture contemplated by this Agreement involves business risks, and that its success will be largely dependent upon the ability of Area Developer and if a corporation or a partnership, its owners as independent businessmen. Franchisor expressly disclaims the making of, and Area Developer acknowledges that it has not received, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the business venture contemplated by this Agreement.

16.2. Area Developer acknowledges that it has received Franchisor's franchise disclosure document required by the Federal Trade Commission's Franchise Rule at least fourteen (14) days prior to the date on which this Agreement was executed.

16.3. Area Developer acknowledges that it has read and understood this Agreement, the Exhibits hereto, and agreements relating thereto, if any, and that Franchisor has accorded Area Developer ample time and opportunity to consult with advisors of Area Developer's own choosing about the potential benefits and risks of entering into this Agreement.

16.4. Each party represents and warrants to the others that there are no other agreements, court orders, or any other legal obligations that would preclude or in any manner restrict such party from: (a) negotiating and entering into this Agreement; (b) exercising its rights under this Agreement; and/or (c) fulfilling its responsibilities under this Agreement.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the parties hereto have duly executed and delivered this Agreement in duplicate on the day and year first above written.

**NATHAN'S FAMOUS SYSTEMS, INC.,  
Franchisor:**

\_\_\_\_\_  
**Area Developer:**

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

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

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

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

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

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

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

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

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

Notices to Franchisor:

Notices to Area Developer:

Nathan's Famous Systems, Inc.

\_\_\_\_\_

One Jericho Plaza - Wing A, 2nd Fl.

\_\_\_\_\_

Jericho, New York 11753

\_\_\_\_\_

Attention: President

Attention: \_\_\_\_\_

Fax: (516) 338-7220

Fax: \_\_\_\_\_

**NATHAN'S FAMOUS SYSTEMS, INC.  
AREA DEVELOPMENT AGREEMENT**

**EXHIBIT A**

1. Each Restaurant developed under this Development Agreement shall be located in the following Development Area:

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2. The Development Fee shall be: \_\_\_\_\_

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3. Recognizing that time is of the essence, Area Developer agrees to satisfy the Development Schedule set forth below:

<b>By (Date)</b>	<b>Cumulative Total Number of Restaurants Which Area Developer Shall Have Open and in Operation</b>

**INITIALED:**

**FRANCHISOR: \_\_\_\_\_ AREA DEVELOPER: \_\_\_\_**

**NATHAN'S FAMOUS SYSTEMS, INC.  
DEVELOPMENT AGREEMENT**

**EXHIBIT B**

**GUARANTEE**

As an inducement to Nathan's Famous Systems, Inc. ("**Franchisor**") to execute the Nathan's Famous Systems, Inc. Area Development Agreement between Franchisor and \_\_\_\_\_ ("**Area Developer**") dated \_\_\_\_\_, 20\_\_\_\_ (the "**Agreement**"), the undersigned hereby agree to defend, indemnify and hold Franchisor, Franchisor's affiliates, and their respective officers, directors, employees, and agents harmless against any and all losses, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorney's fees, reasonable costs of investigation, court costs, and arbitration fees and expenses) resulting from, consisting of, or arising out of or in connection with any failure by Area Developer to perform any obligation of Area Developer under the Agreement, any amendment thereto, or any other agreement executed by Area Developer referred to therein.

The undersigned hereby acknowledge and agree to be individually bound by all of the covenants contained in Section 8 of the Agreement (except that the undersigned shall not be entitled to exercise any of the Area Developer's rights under the Agreement).

This Guarantee shall terminate upon the termination or expiration of the Agreement, except that all obligations and liabilities of the undersigned which arose from events which occurred on or before the effective date of such termination shall remain in full force and effect until satisfied or discharged by the undersigned, and all covenants which by their terms continue in force after the expiration or termination of the Agreement shall remain in force according to their terms. Upon the death of an individual guarantor, the estate of such guarantor shall be bound by this Guarantee, but only for obligations hereunder existing at the time of death; and the obligations of the other guarantors will continue in full force and effect.

Unless specifically stated otherwise, the terms used in this Guarantee shall have the same meaning as in the Agreement, and shall be interpreted and construed in accordance with Section 15 of the Agreement. This Guarantee shall be interpreted and construed under the laws of the State of New York. In the event of any conflict of law, the laws of New York shall prevail (without regard to, and without giving effect to, the application of New York conflict of law rules).

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of the undersigned has signed this Guarantee as of the date of the Agreement.

GUARANTOR(S)

(Seal) \_\_\_\_\_, Individually  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

**NATHAN'S FAMOUS SYSTEMS, INC.  
DEVELOPMENT AGREEMENT  
EXHIBIT C  
FRANCHISE AGREEMENT**

The form of Franchise Agreement currently offered by Franchisor is attached.

**Exhibit D**

**[Reserved]**

**Exhibit E**

**"Miami Subs" Participation Agreements**

**Exhibit E-1**

**Existing Restaurant**

## **NATHAN'S FAMOUS - MIAMI SUBS PARTICIPATION AGREEMENT**

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This Agreement is made the ..... day of ....., 20.... between Nathan's Famous Systems, Inc., with offices at One Jericho Plaza - Wing A, 2nd Fl., Jericho, New York 11753 ("NFSI"), Miami Subs USA, Inc., with offices at 6300 N.W. 31st Avenue, Fort Lauderdale, Florida 33309 ("MSUSA"), and the "Miami Subs" franchisee identified in the signature block below as the "Operator".

*NFSI has developed a system for selling "Nathan's Famous" frankfurters, hamburgers, french fries, and other "Nathan's Famous" products ("NF Products") through "Nathan's Famous" restaurants, in supermarkets, and in other retail settings. Operator is a "Miami Subs" franchisee under a franchise agreement between MSUSA and Operator (the "MS Agreement"), at the location of its "Miami Subs" franchised restaurant (the "Restaurant"), all as identified in the signature block below (the "Approved Location"). In addition to the operation of the "Miami Subs" franchise, Operator also seeks the right to offer and sell NF Products at the Restaurant, using the Trademarks (as defined below), in accordance with a program developed by NFSI and MSUSA for this purpose. This Agreement establishes the terms and conditions under which Operator may use NFSI's trademarks and service marks (for example "Nathan's Famous Since 1916 and Design"), as designated by NFSI in writing, and which NFSI may periodically change (the "Trademarks") in conjunction with the offer and sale of NF Products.*

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### **1. LICENSE.**

a. NFSI grants to Operator a non-exclusive, non-transferable license (and Operator accepts the obligation) to use the Trademarks to identify the NF Products and the fact the Operator is selling the NF Products at the Restaurant, all according to the terms and conditions of this Agreement.

b. Operator agrees, upon the terms and conditions herein contained, to identify and sell NF Products only at the Approved Location.

c. Operator shall not relocate the Restaurant without the prior written consent of both NFSI and MSUSA.

(i) approved products; (ii) condition and appearance of the restaurant; (iii) distributors and suppliers; (iv) restaurant management and personnel; (v) restaurant menu; (vi) sales of products; (vii) specifications, standards, and procedures for operations; and (viii) restaurant management and personnel).

c. Operator agrees to buy NF Products only from NFSI or from a distributor that NFSI has authorized to sell NF Products to Operator.

d. In connection with introducing the sale of NF Products in the Restaurant, Operator agrees to purchase an equipment package and upgrade the premises of the Restaurant in accordance with the written requirements, standards, and instructions issued by NFSI and/or MSUSA.

### **2. OPERATION AND QUALITY STANDARDS.**

a. Operator agrees to construct and operate the "Nathan's Famous" business contemplated under this Agreement, and to prepare and sell NF Products, in accordance with NFSI's standards, which NFSI shall provide to Operator with the executed copy of this Agreement (the "Guidelines").

b. Operator agrees to adhere to the MSUSA Operating Standards as set forth in the MS Agreement (including, but not limited to, the provisions addressing the following subjects:

e. Operator agrees to buy all of the equipment, ingredients, and other supplies to be used in preparation of NF Products at the Restaurant only from NFSI or from a vendor that NFSI has authorized to sell such equipment, ingredients, and supplies to Operator. Operator also understands and acknowledges that: (a) all of the provisions of the MS Agreement relating to equipment, ingredients, and other supplies used in the Restaurant (including without limitation Section 11.B therein) shall also apply to the purchase of all equipment, ingredients, and other supplies to be used in preparation of NF Products at the

Restaurant; and (b) NFSI may receive rebates, license fees, payments, and other compensation from vendors, distributors, manufacturers, and other third parties, which amounts may be based upon the amount of Operator's purchases from such third parties, and which NFSI and its affiliates shall have the right to apply, as NFSI determines in its sole discretion, to brand R&D funds, advertising funds, compensation of NFSI and its affiliates for expenses that NFSI and its affiliates incur in connection with negotiating and maintaining relations with such third parties, or any corporate purposes NFSI deems appropriate.

### 3. FEES.

a. Upon the execution of this Agreement, Operator shall pay to MSUSA an initial fee in the amount of Two Thousand Five Hundred Dollars (\$2,500).

b. Unless otherwise specified by NFSI and MSUSA in writing, all revenue from the sale of NF Products shall be included in the gross sales of the Restaurant, and, therefore, subject to royalty and Ad Fund obligations arising under the MS Agreement (like the sale of any other item at the Restaurant).

c. Operator shall record sales of NF Products and provide reports on such sales in the manner and the form as reasonably requested by NFSI and/or MSUSA. The provisions of the MS Agreement relating to inspection of books and records as well as auditing of the sales of the Restaurant (including without limitation Section 12 therein) shall also apply to the "Nathan's Famous" business contemplated hereunder.

**4. TRADEMARK USE.** In connection with Operator's use of the Trademarks, the parties agree that:

a. Operator shall identify the Restaurant only by use of: (i) the Trademarks as designated by NFSI pursuant to this Agreement, which may be used only in the form and manner that NFSI has designated or approved in writing; and (ii) the "Miami Subs" marks and any other marks as authorized pursuant to the MS Agreement.

b. Operator shall use the Trademarks only in conjunction with:

i. the offer and sale of NF Products (and not in conjunction with the offer or sale of any other product or service);

ii. point-of-sale material to identify to the public that the NF Products offered for sale are "Nathan's Famous" products;

iii. identifying to the public that Operator offers NF Products for sale at Operator's establishment; and/or

iv. advertising, subject to Section 5 below (Operator also agrees not to use the Trademarks in any other way (for example on invoices, stationery, business cards, etc.)).

c. Operator understands and agrees that NFSI exclusively owns all right, title, and interest in the Trademarks and the goodwill associated with them. Operator understands that Operator's use of the Trademarks will inure solely to NFSI's benefit, and Operator further agrees not to dispute or assist others in disputing directly or indirectly NFSI's right and title in the Trademarks. Operator agrees that it shall not attempt to register the Trademarks, or any variation of the Trademarks, with any government or other registry.

d. Operator understands and acknowledges that the provisions of the MS Agreement governing the license and use of the "Miami Subs" marks (including without limitation Section 13 therein) are incorporated herein by reference and shall apply to the license and use of the Trademarks pursuant to this Agreement.

### 5. ADVERTISING.

a. Operator shall advertise its offer of NF Products and the Trademarks in accordance with the local advertising requirements of the MS Agreement.

b. Operator may advertise, promote, market, and otherwise use the Trademarks, and/or make reference to NF Products, but only with NFSI's prior written consent as to each such instance (using the procedure provided under Section 8.D of the MS Agreement).

c. Operator agrees that any sign that Operator displays that uses the Trademarks and/or that

makes reference to NF Products shall either be: (i) purchased from NFSI; or (ii) purchased from another vendor that NFSI has already approved in writing.

d. Operator shall not create, develop, or in any manner operate (nor authorize any other party to operate) a website, webpage, or other internet or electronic display using the Trademarks or otherwise making reference to NFSI and/or NF Products.

**6. INSURANCE.** Operator shall, at all times, maintain insurance policies to cover the offer and sale of the NF Products, with the types and amounts of coverage as required under the provisions of the MS Agreement pertaining to insurance (including without limitation Section 14 therein). Operator shall name, and provide a Certificate of Insurance indicating, NFSI as an additional named insured under said policy(ies).

**7. TERM.** This Agreement shall take effect when it has been signed by all three of the parties and shall continue in effect until the earlier of: (a) the expiration or termination of the MS Agreement; and (b) termination as provided in Section 8 below.

#### **8. TERMINATION.**

a. If Operator fails to comply with the terms and conditions of this Agreement, and/or the Guidelines, then NFSI shall have the right to terminate this Agreement but only by first giving written notice at least thirty (30) days in advance of the date of termination, and Operator shall have the right to cure the default to NFSI's reasonable satisfaction prior to the end of said thirty-day period.

b. If this Agreement expires or is terminated, then all rights granted to Operator under this Agreement shall immediately terminate, and:

i. Operator shall immediately and permanently stop using (and shall make no reference), in any manner whatsoever, the Trademarks, the NF Products, any other "Nathan's Famous" mark, and any other NFSI marks;

ii. Operator shall immediately and permanently stop offering NF Products for sale;

iii. Operator shall not thereafter, directly or indirectly, represent that it has (or had) any affiliation with NFSI, the NF Products, or the Trademarks; and

iv. Operator shall immediately return to NFSI the Guidelines, which are acknowledged to be NFSI's property, and Operator shall neither make, keep nor permit any other party to make or keep a copy of the Guidelines.

c. Operator shall be deemed to be in default and NFSI may, at its option, terminate this Agreement and all rights granted hereunder, without affording Operator an opportunity to cure the default, if any other agreement between NFSI, MSUSA or an affiliate and Operator or an affiliate is terminated by NFSI or MSUSA for a default.

d. Any default under this Agreement shall also be deemed to be a default under the MS Agreement, and MSUSA may, at its option, terminate the MS Agreement and all rights granted thereunder if this Agreement is terminated by NFSI for a default.

**9. ASSIGNMENT.** Operator shall not assign, pledge, sell, or in any manner assign (collectively, to "Transfer") its rights or obligations under this Agreement, nor permit the Transfer of any direct or indirect interest in Operator, without the prior written consent of NFSI and MSUSA. Operator agrees that it shall be reasonable for NFSI and MSUSA to deny approval of any Transfer under this Agreement: (a) that is not to the same party that is the transferee under the MS Agreement; and/or (b) that is to a party that has been disapproved as a transferee under the MS Agreement.

#### **10. GENERAL PROVISIONS.**

a. This document is the complete agreement between NFSI, MSUSA and Operator. The parties agree that they are not relying on anything other than the words of this Agreement in deciding to sign this Agreement. However, and notwithstanding the foregoing, nothing in this Agreement is intended to disclaim any representations made by NFSI in the Franchise Disclosure Document that NFSI furnished to Operator.

b. The only way to amend this Agreement is in writing, signed by all of the parties.

c. Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by registered mail, or by other means which affords the sender evidence of delivery, or of rejected delivery, to the respective parties at the addresses shown on the signature page of this Agreement, unless and until a different address has been designated by written notice to the other party. Any notice by a means which affords the sender evidence of delivery, or rejected delivery, shall be deemed to have been given at the date and time of receipt or rejected delivery. The Guidelines, any changes that NFSI or MSUSA make to the Guidelines, and/or any other written instructions that NFSI or MSUSA provide relating to operational matters, are not considered to be “notices” for the purpose of the delivery requirements in this Section 10.c.

d. Operator acknowledges and agrees that neither NFSI nor MSUSA, nor any party purporting to represent them, have provided any information or representation as to the actual or potential sales volume that Operator may achieve (or that other Operators have achieved), nor has Operator received any other information from NFSI or MSUSA from which Operator could derive sales volume or costs (other than the cost to establish the business itself).

e. Operator shall indemnify and hold NFSI and MSUSA, and the owners and affiliates of NFSI and MSUSA, and all of their respective officers, directors, employees, and agents harmless against any and all claims arising directly or indirectly from, as a result of, or in connection with, Operator’s operation of the Restaurant (including without limitation the offer of the NF Products), as well as the costs, including attorneys’ fees, of defending against them.

f. Operator acknowledges that: (i) the establishment of the “Nathan’s Famous” business will simply be an extension of Operator’s already-existing “Miami Subs” business; (ii) Operator does not anticipate that the “Nathan’s Famous” business will account for more than twenty percent (20%) of Operator’s overall gross sales; and (iii) Operator (or its executives) are experienced in operating a business of the type represented by the “Nathan’s Famous” business contemplated under this Agreement.

g. The parties hereby warrant and represent to each other that there are no other agreements, court orders, or other legal obligations in effect that will or might prevent such party from negotiating, entering into, or carrying out its obligations, under this Agreement.

h. Any and all disputes involving the parties shall be resolved only in the manner provided under Section 29 of the MS Agreement.

**IN WITNESS WHEREOF**, the parties hereto have duly executed and delivered this Agreement in triplicate on the day and year first above written.

**NATHAN'S FAMOUS SYSTEMS, INC. (NFSI):**

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

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

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

Signed on: \_\_\_\_\_, 20\_\_

Address for Notices:  
One Jericho Plaza - Wing A, 2nd Fl.  
Jericho, New York 11753  
Fax: (516) 338-7220

**MIAMI SUBS USA, INC. (MSUSA):**

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

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

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

Signed on: \_\_\_\_\_, 20\_\_

Address for Notices:  
6300 NW 31st Avenue  
Fort Lauderdale, Florida 33309  
Fax: 954-973-7616

\_\_\_\_\_  
**(PRINT NAME OF OPERATOR):**

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

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

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

Signed on: \_\_\_\_\_, 20\_\_

Address for Notices:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Fax: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

Date of MS Agreement: \_\_\_\_\_

Restaurant Location: \_\_\_\_\_  
\_\_\_\_\_

**Exhibit E-2**

**New Restaurant**

## **NATHAN'S FAMOUS - MIAMI SUBS PARTICIPATION AGREEMENT**

This Agreement is made the ..... day of ....., 20.... between Nathan's Famous Systems, Inc., with offices at One Jericho Plaza - Wing A, 2nd Fl., Jericho, New York 11753 ("**NFSI**"), Miami Subs USA, Inc., with offices at 6300 N.W. 31st Avenue, Fort Lauderdale, Florida 33309 ("**MSUSA**"), and the "Miami Subs" franchisee identified in the signature block below as the "**Operator**".

*NFSI has developed a system for selling "Nathan's Famous" frankfurters, hamburgers, french fries, and other "Nathan's Famous" products ("**NF Products**") through "Nathan's Famous" restaurants, in supermarkets, and in other retail settings. Operator is a "Miami Subs" franchisee under a franchise agreement between MSUSA and Operator (the "**MS Agreement**"), at the location of its "Miami Subs" franchised restaurant (the "**Restaurant**"), all as identified in the signature block below (the "**Approved Location**"). In addition to the operation of the "Miami Subs" franchise, Operator also seeks the right to offer and sell NF Products at the Restaurant, using the Trademarks (as defined below), in accordance with a program developed by NFSI and MSUSA for this purpose. This Agreement establishes the terms and conditions under which Operator may use NFSI's trademarks and service marks (for example "Nathan's Famous Since 1916 and Design"), as designated by NFSI in writing, and which NFSI may periodically change (the "**Trademarks**") in conjunction with the offer and sale of NF Products.*

### **1. LICENSE.**

a. NFSI grants to Operator a non-exclusive, non-transferable license (and Operator accepts the obligation) to use the Trademarks to identify the NF Products and the fact the Operator is selling the NF Products at the Restaurant, all according to the terms and conditions of this Agreement.

b. Operator agrees, upon the terms and conditions herein contained, to identify and sell NF Products only at the Approved Location.

c. Operator shall not relocate the Restaurant without the prior written consent of both NFSI and MSUSA.

### **2. OPERATION AND QUALITY STANDARDS.**

a. Operator agrees to construct and operate the "Nathan's Famous" business contemplated under this Agreement, and to prepare and sell NF Products, in accordance with NFSI's standards, which NFSI shall provide to Operator with the executed copy of this Agreement (the "**Guidelines**").

b. Operator agrees to adhere to the MSUSA Operating Standards as set forth in the MS Agreement (including, but not limited to, the

provisions addressing the following subjects:

(i) approved products; (ii) condition and appearance of the restaurant; (iii) distributors and suppliers; (iv) restaurant management and personnel; (v) restaurant menu; (vi) sales of products; (vii) specifications, standards, and procedures for operations; and (viii) restaurant management and personnel).

c. Operator agrees to buy NF Products only from NFSI or from a distributor that NFSI has authorized to sell NF Products to Operator.

d. In connection with introducing the sale of NF Products in the Restaurant, Operator agrees to purchase an equipment package, equip, and construct the premises of the Restaurant in accordance with the written requirements, standards, and instructions issued by NFSI and/or MSUSA.

e. Operator agrees to buy all of the equipment, ingredients, and other supplies to be used in preparation of NF Products at the Restaurant only from NFSI or from a vendor that NFSI has authorized to sell such equipment, ingredients, and supplies to Operator. Operator also understands and acknowledges that: (a) all of the provisions of the MS Agreement relating to equipment, ingredients, and other supplies used in the Restaurant (including without limitation Section 11.B therein) shall also apply

to the purchase of all equipment, ingredients, and other supplies to be used in preparation of NF Products at the Restaurant; and (b) NFSI may receive rebates, license fees, payments, and other compensation from vendors, distributors, manufacturers, and other third parties, which amounts may be based upon the amount of Operator's purchases from such third parties, and which NFSI and its affiliates shall have the right to apply, as NFSI determines in its sole discretion, to brand R&D funds, advertising funds, compensation of NFSI and its affiliates for expenses that NFSI and its affiliates incur in connection with negotiating and maintaining relations with such third parties, or any corporate purposes NFSI deems appropriate.

### **3. FEES.**

a. There is no initial fee that Operator must pay to NFSI for the rights granted hereunder.

b. Unless otherwise specified by NFSI and MSUSA in writing, all revenue from the sale of NF Products shall be included in the gross sales of the Restaurant, and, therefore, subject to royalty and Ad Fund obligations arising under the MS Agreement (like the sale of any other item at the Restaurant).

c. Operator shall record sales of NF Products and provide reports on such sales in the manner and the form as reasonably requested by NFSI and/or MSUSA. The provisions of the MS Agreement relating to inspection of books and records as well as auditing of the sales of the Restaurant (including without limitation Section 12 therein) shall also apply to the "Nathan's Famous" business contemplated hereunder.

**4. TRADEMARK USE.** In connection with Operator's use of the Trademarks, the parties agree that:

a. Operator shall identify the Restaurant only by use of: (i) the Trademarks as designated by NFSI pursuant to this Agreement, which may be used only in the form and manner that NFSI has designated or approved in writing; and (ii) the "Miami Subs"

marks and any other marks as authorized pursuant to the MS Agreement.

b. Operator shall use the Trademarks only in conjunction with:

i. the offer and sale of NF Products (and not in conjunction with the offer or sale of any other product or service);

ii. point-of-sale material to identify to the public that the NF Products offered for sale are "Nathan's Famous" products;

iii. identifying to the public that Operator offers NF Products for sale at Operator's establishment; and/or

iv. advertising, subject to Section 5 below (Operator also agrees not to use the Trademarks in any other way (for example on invoices, stationery, business cards, etc.)).

c. Operator understands and agrees that NFSI exclusively owns all right, title, and interest in the Trademarks and the goodwill associated with them. Operator understands that Operator's use of the Trademarks will inure solely to NFSI's benefit, and Operator further agrees not to dispute or assist others in disputing directly or indirectly NFSI's right and title in the Trademarks. Operator agrees that it shall not attempt to register the Trademarks, or any variation of the Trademarks, with any government or other registry.

d. Operator understands and acknowledges that the provisions of the MS Agreement governing the license and use of the "Miami Subs" marks (including without limitation Section 13 therein) are incorporated herein by reference and shall apply to the license and use of the Trademarks pursuant to this Agreement.

### **5. ADVERTISING.**

a. Operator shall advertise its offer of NF Products and the Trademarks in accordance with the local advertising requirements of the MS Agreement.

b. Operator may advertise, promote, market, and otherwise use the Trademarks, and/or make reference to NF Products, but only with NFSI's prior written consent as to each such instance (using the procedure provided under Section 8.D of the MS Agreement).

c. Operator agrees that any sign that Operator displays that uses the Trademarks and/or that makes reference to NF Products shall either be: (i) purchased from NFSI; or (ii) purchased from another vendor that NFSI has already approved in writing.

d. Operator shall not create, develop, or in any manner operate (nor authorize any other party to operate) a website, webpage, or other internet or electronic display using the Trademarks or otherwise making reference to NFSI and/or NF Products.

**6. INSURANCE.** Operator shall, at all times, maintain insurance policies to cover the offer and sale of the NF Products, with the types and amounts of coverage as required under the provisions of the MS Agreement pertaining to insurance (including without limitation Section 14 therein). Operator shall name, and provide a Certificate of Insurance indicating, NFSI as an additional named insured under said policy(ies).

**7. TERM.** This Agreement shall take effect when it has been signed by all three of the parties and shall continue in effect until the earlier of: (a) the expiration or termination of the MS Agreement; and (b) termination as provided in Section 8 below.

**8. TERMINATION.**

a. If Operator fails to comply with the terms and conditions of this Agreement, and/or the Guidelines, then NFSI shall have the right to terminate this Agreement but only by first giving written notice at least thirty (30) days in advance of the date of termination, and Operator shall have the right to cure the default to NFSI's reasonable satisfaction prior to the end of said thirty-day period.

b. If this Agreement expires or is terminated, then all rights granted to Operator

under this Agreement shall immediately terminate, and:

i. Operator shall immediately and permanently stop using (and shall make no reference), in any manner whatsoever, the Trademarks, the NF Products, any other "Nathan's Famous" mark, and any other NFSI marks;

ii. Operator shall immediately and permanently stop offering NF Products for sale;

iii. Operator shall not thereafter, directly or indirectly, represent that it has (or had) any affiliation with NFSI, the NF Products, or the Trademarks; and

iv. Operator shall immediately return to NFSI the Guidelines, which are acknowledged to be NFSI's property, and Operator shall neither make, keep nor permit any other party to make or keep a copy of the Guidelines.

c. Operator shall be deemed to be in default and NFSI may, at its option, terminate this Agreement and all rights granted hereunder, without affording Operator an opportunity to cure the default, if any other agreement between NFSI, MSUSA or an affiliate and Operator or an affiliate is terminated by NFSI or MSUSA for a default.

d. Any default under this Agreement shall also be deemed to be a default under the MS Agreement, and MSUSA may, at its option, terminate the MS Agreement and all rights granted thereunder if this Agreement is terminated by NFSI for a default.

**9. ASSIGNMENT.** Operator shall not assign, pledge, sell, or in any manner assign (collectively, to "Transfer") its rights or obligations under this Agreement, nor permit the Transfer of any direct or indirect interest in Operator, without the prior written consent of NFSI and MSUSA. Operator agrees that it shall be reasonable for NFSI and MSUSA to deny approval of any Transfer under this Agreement: (a) that is not to the same party that is the transferee under the MS Agreement; and/or

(b) that is to a party that has been disapproved as a transferee under the MS Agreement.

## 10. GENERAL PROVISIONS.

a. This document is the complete agreement between NFSI, MSUSA and Operator. The parties agree that they are not relying on anything other than the words of this Agreement in deciding to sign this Agreement. However, and notwithstanding the foregoing, nothing in this Agreement is intended to disclaim any representations made by NFSI in the Franchise Disclosure Document that NFSI furnished to Operator.

b. The only way to amend this Agreement is in a writing, signed by all of the parties.

c. Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by registered mail, or by other means which affords the sender evidence of delivery, or of rejected delivery, to the respective parties at the addresses shown on the signature page of this Agreement, unless and until a different address has been designated by written notice to the other party. Any notice by a means which affords the sender evidence of delivery, or rejected delivery, shall be deemed to have been given at the date and time of receipt or rejected delivery. The Guidelines, any changes that NFSI or MSUSA make to the Guidelines, and/or any other written instructions that NFSI or MSUSA provide relating to operational matters, are not considered to be "notices" for the purpose of the delivery requirements in this Section 10.c.

d. Operator acknowledges and agrees that neither NFSI nor MSUSA, nor any party purporting to represent them, have provided any information or representation as to the actual or potential sales volume that Operator may achieve (or that other Operators have achieved), nor has Operator received any other information from NFSI or MSUSA from which Operator could derive sales volume or costs (other than the cost to establish the business itself).

e. Operator shall indemnify and hold NFSI and MSUSA, and the owners and affiliates of NFSI and MSUSA, and all of their respective officers, directors, employees, and agents harmless against any and all claims arising directly or indirectly from, as a result of, or in connection with, Operator's operation of the Restaurant (including without limitation the offer of the NF Products), as well as the costs, including attorneys' fees, of defending against them.

f. If Operator owns an existing "Miami Subs" business, Operator acknowledges that: (i) the establishment of the "Nathan's Famous" business will simply be an extension of Operator's already-existing "Miami Subs" business; (ii) Operator does not anticipate that the "Nathan's Famous" business will account for more than twenty percent (20%) of Operator's overall gross sales; and (iii) Operator (or its executives) are experienced in operating a business of the type represented by the "Nathan's Famous" business contemplated under this Agreement.

g. The parties hereby warrant and represent to each other that there are no other agreements, court orders, or other legal obligations in effect that will or might prevent such party from negotiating, entering into, or carrying out its obligations, under this Agreement.

h. Any and all disputes involving the parties shall be resolved only in the manner provided under Section 29 of the MS Agreement.

**IN WITNESS WHEREOF**, the parties hereto have duly executed and delivered this Agreement in triplicate on the day and year first above written.

**NATHAN'S FAMOUS SYSTEMS, INC. (NFSI):**

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

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

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

Signed on: \_\_\_\_\_, 20\_\_

Address for Notices:

One Jericho Plaza - Wing A, 2nd Fl.  
Jericho, New York 11753  
Fax: (516) 338-7220

**MIAMI SUBS USA, INC. (MSUSA):**

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

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

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

Signed on: \_\_\_\_\_, 20\_\_

Address for Notices:

6300 NW 31st Avenue  
Fort Lauderdale, Florida 33309  
Fax: 954-973-7616

\_\_\_\_\_  
**(PRINT NAME OF OPERATOR):**

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

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

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

Signed on: \_\_\_\_\_, 20\_\_

Address for Notices:

\_\_\_\_\_  
\_\_\_\_\_

Fax: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Date of MS Agreement: \_\_\_\_\_

Restaurant Location: \_\_\_\_\_  
\_\_\_\_\_

**Exhibit F**

**"Arthur Treacher's" Participation Agreements**

**Exhibit F-1**

**Existing Franchisees**

## **ARTHUR TREACHER'S - NATHAN'S FAMOUS PARTICIPATION AGREEMENT**

This Agreement is made the ..... day of ....., 20..... between Nathan's Famous Systems, Inc., with offices at One Jericho Plaza - Wing A, 2nd Fl., Jericho, New York 11753 ("NFSI"), and the "Nathan's Famous" franchisee identified in the signature block below as the "Operator."

*NF Treachers Corp. ("NFTC") owns, and has licensed to NFSI under a separate agreement (the "NFTC License"), a distinctive format for selling "Arthur Treacher's" seafood and other "Arthur Treacher's" products ("AT Products") through "Arthur Treacher's" restaurants. Operator is a "Nathan's Famous" franchisee under a franchise agreement between NFSI and Operator (the "NF Agreement"), at the location of its "Nathan's Famous" franchised restaurant (the "Restaurant"), all as identified in the signature block below (the "Approved Location"). In addition to the operation of the "Nathan's Famous" franchise, Operator seeks the right to offer and sell AT Products at the Restaurant, using the Trademarks (as defined below), in accordance with a program developed by NFTC and NFSI for this purpose. This Agreement establishes the terms and conditions under which Operator may use certain trademarks (for example "Arthur Treacher's") designated by NFSI in writing, which NFSI may periodically change (the "Trademarks"), in conjunction with the offer and sale of AT Products at the Restaurant.*

### **1. LICENSE.**

a. NFSI grants to Operator a non-exclusive, non-transferable license (and Operator accepts the obligation) to use the Trademarks to identify the AT Products and the fact the Operator is selling the AT Products at the Restaurant, all according to the terms and conditions of this Agreement.

b. Operator agrees, upon the terms and conditions herein contained, to identify and sell AT Products only at the Approved Location.

c. Operator shall not relocate the Restaurant without the prior written consent of NFSI.

### **2. OPERATION AND QUALITY STANDARDS.**

a. Operator agrees to construct and operate the "Arthur Treacher's" business contemplated under this Agreement, and to prepare and sell AT Products, in accordance with NFSI's standards, which NFSI shall provide to Operator with the executed copy of this Agreement (the "Guidelines").

b. Operator agrees to adhere to the NFSI Operating Standards as set forth in the NF Agreement (including, but not limited to, the provisions addressing the following subjects: (i) approved products; (ii) condition and appearance of the restaurant; (iii) distributors and suppliers; (iv) restaurant management and personnel; (v) restaurant menu; (vi) sales of products; (vii) specifications, standards, and

procedures for operations; and (viii) restaurant management and personnel).

c. Operator agrees to buy AT Products only from NFSI or from a distributor that NFSI has authorized to sell AT Products to Operator.

d. In connection with introducing the sale of AT Products in the Restaurant, Operator agrees to purchase an equipment package, equip, and construct the premises of the Restaurant, including the adaptation of any existing interior and exterior menu boards, in accordance with the written requirements, standards, and instructions issued by NFSI.

e. Operator agrees to buy all of the equipment, ingredients, and other supplies to be used in preparation of AT Products at the Restaurant only from NFSI or from a vendor and/or distributor that NFSI has authorized to sell such equipment, ingredients, and supplies to Operator. Operator also understands and acknowledges that: (a) all of the provisions of the NF Agreement relating to equipment, ingredients, and other supplies used in the Restaurant (including without limitation Section 5.15 therein) shall also apply to the purchase of all equipment, ingredients, and other supplies to be used in preparation of AT Products at the Restaurant; and (b) NFSI may receive rebates, license fees, payments, and other compensation from vendors, distributors, manufacturers, and other third parties, which amounts may be based upon the amount of Operator's purchases from such third parties, and which NFSI and its affiliates shall have the right to apply, as NFSI determines in its sole discretion, to brand R&D funds, advertising funds, compensation of NFSI and its affiliates for expenses that NFSI and its affiliates incur in

connection with negotiating and maintaining relations with such third parties, or any corporate purposes NFSI deems appropriate.

### **3. FEES.**

a. Upon execution of this Agreement, Operator shall pay to NFSI an initial fee in the amount of Five Thousand Dollars (\$5,000).

b. Unless otherwise specified by NFSI in writing, all revenue from the sale of AT Products shall be included in the gross sales of the Restaurant, and, therefore, subject to royalty and Marketing Development Fund (or Advertising Fund) obligations arising under the NF Agreement (like the sale of any other item at the Restaurant).

c. Operator shall record sales of AT Products and provide reports on such sales in the manner and the form as reasonably requested by NFSI. The provisions of the NF Agreement relating to inspection of books and records as well as auditing of the sales of the Restaurant (including without limitation Section 9 therein) shall also apply to the "Arthur Treacher's" business contemplated hereunder.

**4. TRADEMARK USE.** In connection with Operator's use of the Trademarks, the parties agree that:

a. Operator shall identify the Restaurant only by use of: (i) the Trademarks as designated by NFSI pursuant to this Agreement, which may be used only in the form and manner that NFSI has designated or approved in writing; and (ii) the "Nathan's Famous" marks and any other marks as authorized pursuant to the NF Agreement.

b. Operator shall use the Trademarks only in conjunction with:

i. the offer and sale of AT Products (and not in conjunction with the offer or sale of any other product or service);

ii. point-of-sale material to identify to the public that the AT Products offered for sale are "Arthur Treacher's" products;

iii. identifying to the public that Operator offers AT Products for sale at Operator's establishment; and/or

iv. advertising, subject to Section 5 below (Operator also agrees not to use the Trademarks in

any other way (for example on invoices, stationery, business cards, etc.)).

c. Operator understands and agrees that NFTC exclusively owns all right, title, and interest in the Trademarks and the goodwill associated with them. Operator understands that Operator's use of the Trademarks will inure solely to NFTC's benefit, and Operator further agrees not to dispute or assist others in disputing directly or indirectly NFTC's right and title in the Trademarks. Operator agrees that it shall not attempt to register the Trademarks, or any variation of the Trademarks, with any government or other registry.

d. Operator understands and acknowledges that the provisions of the NF Agreement governing the license and use of the "Nathan's Famous" marks (including without limitation Section 6 therein) are incorporated herein by reference and shall apply to the license and use of the Trademarks pursuant to this Agreement.

e. Upon the expiration, termination or non-renewal of this Participation Agreement, Operator shall immediately cease using the Trademarks, color combinations, designs, symbols or slogans, and NFSI may cause Operator to execute such documents and take such action as may be necessary to evidence this fact. After the effective date of expiration, termination or non-renewal, Operator shall not represent or imply that he/she is associated with NFTC. Operator acknowledges and agrees that the unauthorized use of the Trademarks will result in irreparable harm to NFSI for which NFSI may obtain injunctive relief, monetary damages, reasonable attorneys' fees and costs.

f. Operator shall be required to affix the <sup>tm</sup> or ® symbol upon all advertising, publicity, signs, decorations, furnishings, equipment or other printed or graphic material employing the works "Arthur Treacher's Fish & Chips" or any other of NFTC Trademarks, whether presently existing or developed in the future.

### **5. ADVERTISING.**

a. Operator shall advertise its offer of AT Products and the Trademarks in accordance with the local advertising requirements of the NF Agreement.

b. Operator may advertise, promote, market, and otherwise use the Trademarks, and/or make reference to AT Products, but only with NFSI's prior written consent as to each such instance.

c. Operator agrees that any sign that Operator displays that uses the Trademarks and/or that makes reference to AT Products shall either be: (i) purchased from NFSI; or (ii) purchased from another vendor that NFSI has already approved in writing.

d. Operator shall not create, develop, or in any manner operate (nor authorize any other party to operate) a website, webpage, or other internet or electronic display using the Trademarks or otherwise making reference to NFSI and/or AT Products.

**6. INSURANCE.** Operator shall, at all times, maintain insurance policies to cover the offer and sale of the AT Products, with the types and amounts of coverage as required under the provisions of the NF Agreement pertaining to insurance (including without limitation Section 11 therein). Operator shall name, and provide a Certificate of Insurance indicating, NFSI as an additional named insured under said policy(ies).

**7. TERM.** This Agreement shall take effect when it has been signed by all of the parties and shall continue in effect until the earlier of: (a) the expiration or termination of the NF Agreement; (b) the expiration or termination of the NFTC License; and (c) termination as provided in Section 8 below.

## **8. TERMINATION.**

a. If Operator fails to comply with the terms and conditions of this Agreement, and/or the Guidelines, then NFSI shall have the right to terminate this Agreement but only by first giving written notice at least thirty (30) days in advance of the date of termination, and Operator shall have the right to cure the default to NFSI's reasonable satisfaction prior to the end of said thirty-day period.

b. If this Agreement expires or is terminated, then all rights granted to Operator under this Agreement shall immediately terminate, and:

i. Operator shall immediately and permanently stop using (and shall make no reference), in any manner whatsoever, the Trademarks, the AT Products, any other "Arthur Treacher's" mark, and any other NFTC marks;

ii. Operator shall immediately and permanently stop offering AT Products for sale;

iii. Operator shall not thereafter, directly or indirectly, represent that it has (or had) any affiliation with NFTC, the AT Products, or the Trademarks; and

iv. Operator shall immediately return to NFSI the Guidelines, which are acknowledged to be NFSI's property, and Operator shall neither make, keep nor permit any other party to make or keep a copy of the Guidelines.

c. Operator shall be deemed to be in default and NFSI may, at its option, terminate this Agreement and all rights granted hereunder, without affording Operator an opportunity to cure the default, if any other agreement between NFSI or an affiliate and Operator or an affiliate is terminated by NFSI for a default.

d. Any default under this Agreement shall also be deemed to be a default under the NF Agreement, and NFSI may, at its option, terminate the NF Agreement and all rights granted thereunder if this Agreement is terminated by NFSI for a default.

**9. ASSIGNMENT.** Operator shall not assign, pledge, sell, or in any manner assign (collectively, to "Transfer") its rights or obligations under this Agreement, nor permit the Transfer of any direct or indirect interest in Operator, without the prior written consent of NFSI. Operator agrees that it shall be reasonable for NFSI to deny approval of any Transfer under this Agreement: (a) that is not to the same party that is the transferee under the NF Agreement; and/or (b) that is to a party that has been disapproved as a transferee under the NF Agreement. In connection with any Transfer of this Agreement, and in addition to any transfer fee required by the NF Agreement, Operator shall pay NFSI a non-refundable transfer fee of Five Hundred Dollars (\$500).

## **10. GENERAL PROVISIONS.**

a. This document is the complete agreement between NFSI and Operator. The parties agree that they are not relying on anything other than the words of this Agreement in deciding to sign this Agreement. However, and notwithstanding the foregoing, nothing in this Agreement is intended to disclaim any representations made by NFSI in the Franchise Disclosure Document that NFSI furnished to Operator.

b. The only way to amend this Agreement is in a writing, signed by all of the parties.

c. Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by registered mail, or by other means which affords the sender evidence of delivery, or of rejected delivery, to the respective parties at the addresses shown on the signature page of this Agreement, unless and until a different address has been designated by written notice to the other party. Any notice by a means which affords the sender evidence of delivery, or rejected delivery, shall be deemed to have been given at the date and time of receipt or rejected delivery. The Guidelines, any changes that NFSI or NFTC make to the Guidelines, and/or any other written instructions that NFSI or NFTC provide relating to operational matters, are not considered to be "notices" for the purpose of the delivery requirements in this Section 10.c.

d. Operator acknowledges and agrees that neither NFTC nor NFSI, nor any party purporting to represent them, have provided any information or representation as to the actual or potential sales volume that Operator may achieve (or that other Operators have achieved), nor has Operator received any other information from NFTC or NFSI from which Operator could derive sales volume or costs (other than the cost to establish the business itself).

e. Operator shall indemnify and hold NFTC and NFSI, and the owners and affiliates of NFTC and NFSI, and all of their respective officers, directors, employees, and agents harmless against any and all claims arising directly or indirectly from, as a result of, or in connection with, Operator's operation of the Restaurant (including without limitation the offer of the AT Products), as well as the costs, including attorneys' fees, of defending against them.

f. If Operator owns an existing "Nathan's Famous" business, Operator acknowledges that: (i) the establishment of the "Arthur Treacher's" business will simply be an extension of Operator's already-existing "Nathan's Famous" business; (ii) Operator does not anticipate that the "Arthur Treacher's" business will account for more than twenty percent (20%) of Operator's overall gross sales; and (iii) Operator (or its executives) are experienced in operating a business of the type represented by the "Arthur Treacher's" business contemplated under this Agreement.

g. The parties hereby represent and warrant to each other that there are no other agreements, court orders, or other legal obligations in effect that will or might prevent such party from negotiating, entering into, or carrying out its obligations, under this Agreement.

h. Any and all disputes involving the parties shall be resolved only in the manner provided under Section 22 of the NF Agreement.

**IN WITNESS WHEREOF**, the parties hereto have duly executed and delivered this Agreement in triplicate on the day and year first above written.

**NATHAN'S FAMOUS SYSTEMS, INC. (NFSI):**

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

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

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

Signed on: \_\_\_\_\_, 20\_\_\_\_

Address for Notices:

One Jericho Plaza - Wing A, 2nd Fl.  
Jericho, New York 11753  
Fax: (516) 338-7220

\_\_\_\_\_  
(PRINT NAME OF OPERATOR):

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

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

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

Signed on: \_\_\_\_\_, 20\_\_\_\_

Address for Notices:

\_\_\_\_\_

\_\_\_\_\_

Fax: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Date of NF Agreement: \_\_\_\_\_

Restaurant Location: \_\_\_\_\_

**Exhibit F-2**

**New Franchisees**

## ARTHUR TREACHER'S - NATHAN'S FAMOUS PARTICIPATION AGREEMENT

This Agreement is made the ..... day of ....., 20..... between Nathan's Famous Systems, Inc., with offices at One Jericho Plaza - Wing A, 2nd Fl., Jericho, New York 11753 ("NFSI"), and the "Nathan's Famous" franchisee identified in the signature block below as the "Operator."

NF Treachers Corp. ("NFTC") owns, and has licensed to NFSI under a separate agreement (the "NFTC License"), a distinctive format for selling "Arthur Treacher's" seafood and other "Arthur Treacher's" products ("AT Products") through "Arthur Treacher's" restaurants. Operator is a "Nathan's Famous" franchisee under a franchise agreement between NFSI and Operator (the "NF Agreement"), at the location of its "Nathan's Famous" franchised restaurant (the "Restaurant"), all as identified in the signature block below (the "Approved Location"). In addition to the operation of the "Nathan's Famous" franchise, Operator seeks the right to offer and sell AT Products at the Restaurant, using the Trademarks (as defined below), in accordance with a program developed by NFTC and NFSI for this purpose. This Agreement establishes the terms and conditions under which Operator may use certain trademarks (for example "Arthur Treacher's") designated by NFSI in writing, which NFSI may periodically change (the "Trademarks"), in conjunction with the offer and sale of AT Products at the Restaurant.

### 1. LICENSE.

a. NFSI grants to Operator a non-exclusive, non-transferable license (and Operator accepts the obligation) to use the Trademarks to identify the AT Products and the fact the Operator is selling the AT Products at the Restaurant, all according to the terms and conditions of this Agreement.

b. Operator agrees, upon the terms and conditions herein contained, to identify and sell AT Products only at the Approved Location.

c. Operator shall not relocate the Restaurant without the prior written consent of NFSI.

### 2. OPERATION AND QUALITY STANDARDS.

a. Operator agrees to construct and operate the "Arthur Treacher's" business contemplated under this Agreement, and to prepare and sell AT Products, in accordance with NFSI's standards, which NFSI shall provide to Operator with the executed copy of this Agreement (the "Guidelines").

b. Operator agrees to adhere to the NFSI Operating Standards as set forth in the NF Agreement (including, but not limited to, the provisions addressing the following subjects: (i) approved products; (ii) condition and appearance of the restaurant; (iii) distributors and suppliers; (iv) restaurant management and personnel; (v) restaurant menu; (vi) sales of products; (vii) specifications, standards, and

procedures for operations; and (viii) restaurant management and personnel).

c. Operator agrees to buy AT Products only from NFSI or from a distributor that NFSI has authorized to sell AT Products to Operator.

d. In connection with introducing the sale of AT Products in the Restaurant, Operator agrees to purchase an equipment package, equip, and construct the premises of the Restaurant, including the adaptation of any existing interior and exterior menu boards, in accordance with the written requirements, standards, and instructions issued by NFSI.

e. Operator agrees to buy all of the equipment, ingredients, and other supplies to be used in preparation of AT Products at the Restaurant only from NFSI or from a vendor and/or distributor that NFSI has authorized to sell such equipment, ingredients, and supplies to Operator. Operator also understands and acknowledges that: (a) all of the provisions of the NF Agreement relating to equipment, ingredients, and other supplies used in the Restaurant (including without limitation Section 5.15 therein) shall also apply to the purchase of all equipment, ingredients, and other supplies to be used in preparation of AT Products at the Restaurant; and (b) NFSI may receive rebates, license fees, payments, and other compensation from vendors, distributors, manufacturers, and other third parties, which amounts may be based upon the amount of Operator's purchases from such third parties, and which NFSI and its affiliates shall have the right to apply, as NFSI determines in its sole discretion, to brand R&D funds, advertising funds, compensation of NFSI and its affiliates for

expenses that NFSI and its affiliates incur in connection with negotiating and maintaining relations with such third parties, or any corporate purposes NFSI deems appropriate.

### **3. FEES.**

a. Upon execution of this Agreement, Operator shall pay to NFSI an initial fee in the amount of Seven Thousand Five Hundred Dollars (\$7,500).

b. Unless otherwise specified by NFSI in writing, all revenue from the sale of AT Products shall be included in the gross sales of the Restaurant, and, therefore, subject to royalty and Marketing Development Fund (or Advertising Fund) obligations arising under the NF Agreement (like the sale of any other item at the Restaurant).

c. Operator shall record sales of AT Products and provide reports on such sales in the manner and the form as reasonably requested by NFSI. The provisions of the NF Agreement relating to inspection of books and records as well as auditing of the sales of the Restaurant (including without limitation Section 9 therein) shall also apply to the "Arthur Treacher's" business contemplated hereunder.

**4. TRADEMARK USE.** In connection with Operator's use of the Trademarks, the parties agree that:

a. Operator shall identify the Restaurant only by use of: (i) the Trademarks as designated by NFSI pursuant to this Agreement, which may be used only in the form and manner that NFSI has designated or approved in writing; and (ii) the "Nathan's Famous" marks and any other marks as authorized pursuant to the NF Agreement.

b. Operator shall use the Trademarks only in conjunction with:

i. the offer and sale of AT Products (and not in conjunction with the offer or sale of any other product or service);

ii. point-of-sale material to identify to the public that the AT Products offered for sale are "Arthur Treacher's" products;

iii. identifying to the public that Operator offers AT Products for sale at Operator's establishment; and/or

iv. advertising, subject to Section 5 below (Operator also agrees not to use the Trademarks in any other way (for example on invoices, stationery, business cards, etc.)).

c. Operator understands and agrees that NFTC exclusively owns all right, title, and interest in the Trademarks and the goodwill associated with them. Operator understands that Operator's use of the Trademarks will inure solely to NFTC's benefit, and Operator further agrees not to dispute or assist others in disputing directly or indirectly NFTC's right and title in the Trademarks. Operator agrees that it shall not attempt to register the Trademarks, or any variation of the Trademarks, with any government or other registry.

d. Operator understands and acknowledges that the provisions of the NF Agreement governing the license and use of the "Nathan's Famous" marks (including without limitation Section 6 therein) are incorporated herein by reference and shall apply to the license and use of the Trademarks pursuant to this Agreement.

e. Upon the expiration, termination or non-renewal of this Participation Agreement, Operator shall immediately cease using the Trademarks, color combinations, designs, symbols or slogans, and NFSI may cause Operator to execute such documents and take such action as may be necessary to evidence this fact. After the effective date of expiration, termination or non-renewal, Operator shall not represent or imply that he/she is associated with NFTC. Operator acknowledges and agrees that the unauthorized use of the Trademarks will result in irreparable harm to NFSI for which NFSI may obtain injunctive relief, monetary damages, reasonable attorneys' fees and costs.

f. Operator shall be required to affix the <sup>tm</sup> or ® symbol upon all advertising, publicity, signs, decorations, furnishings, equipment or other printed or graphic material employing the works "Arthur Treacher's Fish & Chips" or any other of NFTC Trademarks, whether presently existing or developed in the future.

### **5. ADVERTISING.**

a. Operator shall advertise its offer of AT Products and the Trademarks in accordance with the local advertising requirements of the NF Agreement.

b. Operator may advertise, promote, market, and otherwise use the Trademarks, and/or make

reference to AT Products, but only with NFSI's prior written consent as to each such instance.

c. Operator agrees that any sign that Operator displays that uses the Trademarks and/or that makes reference to AT Products shall either be: (i) purchased from NFSI; or (ii) purchased from another vendor that NFSI has already approved in writing.

d. Operator shall not create, develop, or in any manner operate (nor authorize any other party to operate) a website, webpage, or other internet or electronic display using the Trademarks or otherwise making reference to NFSI and/or AT Products.

**6. INSURANCE.** Operator shall, at all times, maintain insurance policies to cover the offer and sale of the AT Products, with the types and amounts of coverage as required under the provisions of the NF Agreement pertaining to insurance (including without limitation Section 11 therein). Operator shall name, and provide a Certificate of Insurance indicating, NFSI as an additional named insured under said policy(ies).

**7. TERM.** This Agreement shall take effect when it has been signed by all of the parties and shall continue in effect until the earlier of: (a) the expiration or termination of the NF Agreement; (b) the expiration or termination of the NFTC License; and (c) termination as provided in Section 8 below.

**8. TERMINATION.**

a. If Operator fails to comply with the terms and conditions of this Agreement, and/or the Guidelines, then NFSI shall have the right to terminate this Agreement but only by first giving written notice at least thirty (30) days in advance of the date of termination, and Operator shall have the right to cure the default to NFSI's reasonable satisfaction prior to the end of said thirty-day period.

b. If this Agreement expires or is terminated, then all rights granted to Operator under this Agreement shall immediately terminate, and:

i. Operator shall immediately and permanently stop using (and shall make no reference), in any manner whatsoever, the Trademarks, the AT Products, any other "Arthur Treacher's" mark, and any other NFTC marks;

ii. Operator shall immediately and permanently stop offering AT Products for sale;

iii. Operator shall not thereafter, directly or indirectly, represent that it has (or had) any affiliation with NFTC, the AT Products, or the Trademarks; and

iv. Operator shall immediately return to NFSI the Guidelines, which are acknowledged to be NFSI's property, and Operator shall neither make, keep nor permit any other party to make or keep a copy of the Guidelines.

c. Operator shall be deemed to be in default and NFSI may, at its option, terminate this Agreement and all rights granted hereunder, without affording Operator an opportunity to cure the default, if any other agreement between NFSI or an affiliate and Operator or an affiliate is terminated by NFSI for a default.

d. Any default under this Agreement shall also be deemed to be a default under the NF Agreement, and NFSI may, at its option, terminate the NF Agreement and all rights granted thereunder if this Agreement is terminated by NFSI for a default.

**9. ASSIGNMENT.** Operator shall not assign, pledge, sell, or in any manner assign (collectively, to "**Transfer**") its rights or obligations under this Agreement, nor permit the Transfer of any direct or indirect interest in Operator, without the prior written consent of NFSI. Operator agrees that it shall be reasonable for NFSI to deny approval of any Transfer under this Agreement: (a) that is not to the same party that is the transferee under the NF Agreement; and/or (b) that is to a party that has been disapproved as a transferee under the NF Agreement. In connection with any Transfer of this Agreement, and in addition to any transfer fee required by the NF Agreement, Operator shall pay NFSI a non-refundable transfer fee of Five Hundred Dollars (\$500).

**10. GENERAL PROVISIONS.**

a. This document is the complete agreement between NFSI and Operator. The parties agree that they are not relying on anything other than the words of this Agreement in deciding to sign this Agreement. However, and notwithstanding the foregoing, nothing in this Agreement is intended to disclaim any representations made by NFSI in the Franchise Disclosure Document that NFSI furnished to Operator.

b. The only way to amend this Agreement is in a writing, signed by all of the parties.

c. Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by registered mail, or by other means which affords the sender evidence of delivery, or of rejected delivery, to the respective parties at the addresses shown on the signature page of this Agreement, unless and until a different address has been designated by written notice to the other party. Any notice by a means which affords the sender evidence of delivery, or rejected delivery, shall be deemed to have been given at the date and time of receipt or rejected delivery. The Guidelines, any changes that NFSI or NFTC make to the Guidelines, and/or any other written instructions that NFSI or NFTC provide relating to operational matters, are not considered to be "notices" for the purpose of the delivery requirements in this Section 10.c.

d. Operator acknowledges and agrees that neither NFTC nor NFSI, nor any party purporting to represent them, have provided any information or representation as to the actual or potential sales volume that Operator may achieve (or that other Operators have achieved), nor has Operator received any other information from NFTC or NFSI from which Operator could derive sales volume or costs (other than the cost to establish the business itself).

e. Operator shall indemnify and hold NFTC and NFSI, and the owners and affiliates of NFTC and NFSI, and all of their respective officers, directors, employees, and agents harmless against any and all claims arising directly or indirectly from, as a result of, or in connection with, Operator's operation of the Restaurant (including without limitation the offer of the AT Products), as well as the costs, including attorneys' fees, of defending against them.

f. If Operator owns an existing "Nathan's Famous" business, Operator acknowledges that: (i) the establishment of the "Arthur Treacher's" business will simply be an extension of Operator's already-existing "Nathan's Famous" business; (ii) Operator does not anticipate that the "Arthur Treacher's" business will account for more than twenty percent (20%) of Operator's overall gross sales; and (iii) Operator (or its executives) are experienced in operating a business of the type represented by the "Arthur Treacher's" business contemplated under this Agreement.

g. The parties hereby represent and warrant to each other that there are no other agreements, court orders, or other legal obligations in effect that will or might prevent such party from negotiating, entering into, or carrying out its obligations, under this Agreement.

h. Any and all disputes involving the parties shall be resolved only in the manner provided under Section 22 of the NF Agreement.

**IN WITNESS WHEREOF**, the parties hereto have duly executed and delivered this Agreement in triplicate on the day and year first above written.

**NATHAN'S FAMOUS SYSTEMS, INC. (NFSI):**

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

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

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

Signed on: \_\_\_\_\_, 20\_\_\_\_

Address for Notices:

One Jericho Plaza - Wing A, 2nd Fl.  
Jericho, New York 11753  
Fax: (516) 338-7220

\_\_\_\_\_  
(PRINT NAME OF OPERATOR):

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

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

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

Signed on: \_\_\_\_\_, 20\_\_\_\_

Address for Notices:

\_\_\_\_\_

Fax: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Date of NF Agreement: \_\_\_\_\_

Restaurant Location: \_\_\_\_\_

**Exhibit G**  
**Deposit Agreement**

# Nathan's Famous Systems, Inc.

## Deposit Agreement

This Deposit Agreement (the "**Agreement**") is made and entered into on \_\_\_\_\_, 20\_\_, (the "**Effective Date**") between Nathan's Famous Systems, Inc., a Delaware corporation with its principal office at One Jericho Plaza - Wing A, 2nd Fl., Jericho, New York 11753 ("**NFSI**") and \_\_\_\_\_, a [resident] [corporation] [partnership] [limited liability company] [limited liability partnership] of the State of \_\_\_\_\_, whose principal address is \_\_\_\_\_ ("**Depositor**").

### RECITALS

WHEREAS, NFSI is in the business, among other things, of developing and operating a system consisting of franchised and company-operated "Nathan's Famous" restaurants under the "Nathan's Famous" trademarks, service marks, and system owned or licensed by NFSI (collectively, "**Restaurants**");

WHEREAS, Depositor wishes to apply to become a franchisee under NFSI's "Nathan's Famous" system pursuant to a franchise agreement for a Restaurant to be located at a particular site;

WHEREAS, NFSI must expend considerable time and effort, and incur certain costs during the Deposit Period (as defined in this Agreement) in order to evaluate the applicant's qualifications and suitability to become a franchisee and to evaluate the proposed site for the Restaurant;

WHEREAS, Depositor wishes to place a deposit with NFSI as evidence of Depositor's good faith during the Deposit Period.

NOW THEREFORE, in consideration of the undertakings and commitments of each party to the other party as set forth herein, and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

### AGREEMENT

1. The Deposit. Upon execution of this Agreement, Depositor shall pay NFSI the sum of Five Thousand Dollars (\$5,000) as a non-interest bearing deposit (the "**Deposit**").
2. Refundability. The Deposit shall be refundable to Depositor only in accordance with Section 11 below.

3. Credit. NFSI shall credit the full amount of the Deposit against the initial franchise fee due under the franchise agreement entered into by the parties, unless this Agreement is terminated (other than as provided in Section 11.2.1 below), and except as otherwise provided in Section 6.2 below.
4. Deposit Area. During the Deposit Period, NFSI and Depositor shall explore the prospect of entering into a franchise agreement for the establishment of a Restaurant within the following area: \_\_\_\_\_ (the “**Deposit Area**”). The only purpose of the Deposit Area is to describe the area within which they will focus their attention during the Deposit Period.
5. Limitations.
  - 5.1 Nothing in this Agreement (except to the extent otherwise provided in Section 9 below) shall prevent NFSI or Depositor from entering into any other agreement, conducting business, or taking any action within the Deposit Area or elsewhere, with one another and/or with other parties.
  - 5.2 By entering into this Agreement NFSI shall not be deemed to have given any representation or assurance that any site Depositor finds, whether in the Deposit Area or otherwise, will be acceptable to NFSI.
  - 5.3 NFSI is not obligated to propose any particular location(s) to Depositor, but may nonetheless do so from time to time.
  - 5.4 By proposing or approving a particular location, NFSI shall not be deemed to have stated, implied, or otherwise given any representation that Depositor will or is likely to be successful or profitable in operating a Restaurant at that location.
6. Assistance. NFSI shall furnish to Depositor the following:
  - 6.1 Site selection guidelines, including NFSI’s minimum standards for a location for the Restaurant, and such site selection counseling and assistance as NFSI may deem advisable.
  - 6.2 Such on-site evaluation as NFSI may deem advisable in response to Depositor’s requests for site approval; provided, however, that NFSI shall not provide on-site evaluation for any proposed site prior to the receipt of a completed site approval form for such site prepared by Depositor pursuant to Section 7.1 below.
7. Site Approval. Before signing a franchise agreement, NFSI shall have the right to approve the proposed site for the Restaurant, as well as the lease terms (if Depositor will lease the site).
  - 7.1 Depositor shall submit to NFSI, in the form specified by NFSI, a completed site approval form prescribed by NFSI, and such other information or materials as

NFSI may reasonably require. NFSI shall have thirty (30) days after receipt of such information and materials from Depositor to approve or disapprove, in its sole discretion, the proposed site as the location for the Restaurant. In the event NFSI does not disapprove a proposed site by written notice to Depositor within said thirty (30) days, NFSI shall be deemed to have denied approval to such site. Within sixty (60) days of Depositor's receipt of a draft of lease, Depositor shall execute a lease, after obtaining NFSI's prior written approval of the lease terms (if the premises are to be leased), or a binding agreement to purchase the site.

7.2 If Depositor will occupy the premises at which the Restaurant is operated pursuant to a lease or sublease, Depositor shall, prior to the execution thereof, submit such lease to NFSI for its written approval. NFSI shall have the right to require the inclusion in the lease or sublease any or all of the following provisions before giving its approval to any such lease or sublease:

7.2.1 a provision which restricts the use of the premises solely to the operation of the Restaurant;

7.2.2 a provision that prohibits Depositor from subleasing or assigning all or any part of its occupancy rights or extending the term of or renewing the lease, without NFSI's prior written consent;

7.2.3 a provision giving NFSI the right to enter the premises to make modifications necessary to protect NFSI's trademarks or system or to cure any default under the franchise agreement or lease;

7.2.4 a provision reserving to NFSI the right, at NFSI's election, to receive an assignment of the leasehold interest, with the right to sublease, upon termination or expiration of such lease or of the franchise agreement; and/or

7.2.5 a provision requiring landlord to provide NFSI with a simultaneous copy of all letters and other notices given to Depositor under the lease or sublease.

7.3 Depositor acknowledges and agrees that NFSI's review and approval of the lease or sublease shall be limited to an assessment of whether such lease or sublease complies with NFSI's internal standards. Depositor acknowledges that by reviewing the lease or sublease, NFSI is not acting as Depositor's counsel or advisor for the purpose of negotiating and executing any such lease or sublease, and Depositor shall retain and rely only on its own counsel and/or independent advisors in connection with the lease or sublease.

8. Applications. Depositor agrees to make all applications and provide all information reasonably requested by NFSI to evaluate Depositor's qualification and suitability to enter into a franchise agreement with NFSI.

9. Confidentiality. During the Deposit Period, certain confidential information about NFSI and its system will be disclosed or otherwise made known to Depositor (“**Confidential Information**”). Depositor agrees to respect and maintain the confidential nature of such Confidential Information, and not in any way disclose the Confidential Information to anyone else, nor in any way use the Confidential Information in the operation of any business (excluding a Restaurant operated pursuant to a franchise agreement with NFSI, if one is ever signed). It is agreed that Depositor’s obligations under this Section 9 shall not expire upon termination of this Agreement.
10. Deposit Period. The parties agree that the “**Deposit Period**” shall be one hundred and eighty (180) days, starting on the Effective Date. The parties may, in a written document signed by both of them, extend the Deposit Period.
11. Termination. This Agreement, and all rights and obligations under this Agreement (except for Section 9 above), shall expire and/or terminate, the parties shall have no further rights or obligations to each other, and NFSI shall refund the Deposit paid, less NFSI’s actual out-of-pocket expenses incurred in performing its obligations under this Agreement, within thirty (30) days after said expiration or termination, upon any of the following:
  - 11.1 Either party shall have the right to terminate this Agreement for cause or for no cause.
  - 11.2 Unless the parties agree otherwise in writing, this Agreement shall expire if, at the end of the Deposit Period: (a) no franchise agreement has been signed; (b) Depositor has not located a site for the Restaurant that is acceptable to NFSI; (c) NFSI has located an acceptable site and Depositor rejects this site; or (d) if for any other reason there is no approved site for the Restaurant.
  - 11.3 If this Agreement has not earlier expired or terminated, then it shall terminate when the parties sign a franchise agreement, or at the end of the Deposit Period.
12. No Franchise Rights. This Agreement is not a franchise and does not grant Depositor any right whatsoever to use the “Nathan’s Famous” trademarks and/or system, which rights can only be granted under a franchise agreement entered into by Depositor and NFSI. Depositor shall not use the “Nathan’s Famous” trademarks or system, nor shall Depositor make any representation or commitment on NFSI’s behalf.
13. Acknowledgment. Depositor acknowledges receipt of NFSI’s franchise disclosure document at least fourteen (14) days before the Effective Date.

14. No Conflicting Obligations. Depositor represents and warrants to NFSI that neither Depositor nor its principals are under any contractual or other legal obligation that would restrict Depositor and its principals from: (a) entering into this Deposit Agreement and/or a “Nathan’s Famous” franchise agreement; and/or (b) performing the obligations and/or exercising the rights under this Agreement and/or any “Nathan’s Famous” franchise agreement that the parties may enter into.
  
15. Whole Agreement. This Agreement incorporates the full and complete agreement between the parties concerning the subject of this Agreement, and supersedes any and all prior correspondence, conversations, representations, or statements of whatever nature concerning the subject of this Agreement. The parties are not relying on anything other than the words of this Agreement in deciding whether or not to enter into this Agreement. However, and notwithstanding the foregoing, nothing in this Agreement is intended to disclaim any representations made by NFSI in the Franchise Disclosure Document that Franchisor furnished to Depositor.
  
16. Governing Law. This Agreement shall be interpreted and construed exclusively under the laws of the State of New York, which laws shall prevail in the event of any conflict of law (but without regard to, and without giving effect to, the application of New York choice-of-law rules); provided, that nothing in this Section 16 is intended by the parties to subject this Agreement to any franchise or similar law, rule, or regulation of the State of New York to which this Agreement would not otherwise be subject.

**Nathan’s Famous Systems, Inc.**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

\_\_\_\_\_  
**Depositor:**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

\_\_\_\_\_  
**Depositor:**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

**Exhibit H - 1**

**Current Franchisees/Licensees as of March 26, 2023**

<u>Agreement Type</u>	<u>Franchisee Name</u>	<u>Location Name</u>	<u>Address</u>	<u>City</u>	<u>State/Country</u>	<u>Contact #</u>
BMP	Super Value CT, LLC The Polo Club of Boca Raton Property Owners Association, Inc.	Nathan's Famous Boca Polo Club	273 Clarks Falls Road 5400 Champions Blvd.	N. Stonington	CT	(860) 599-2020
BMP	Boca West Country Club	Boca West Country Club	20583 Boca West Drive	Boca Raton	FL	(561) 995-1135
BMP	DK Assets, Inc.	Bruster's Real Ice Cream - Titusville	855 Cheney Highway	Boca Raton	FL	(561) 488-6990
BMP	Joway, Inc.	Bruster's Real Ice Cream - Destin	4655 Gulfstarr Drive	Titusville	FL	321-385-0400
BMP	Palm Coast-Duffy's Delights, LLC	Bruster's Real Ice Cream - Palm Coast	50 Plaza Drive	Destin	FL	(850) 269-2920
BMP	Ayube Benson Carmen, Inc.	Bruster's Real Ice Cream - Winter Springs	295 East State Road 434	Palm Coast	FL	(386) 447-7650
BMP	Westgate Cocoa Beach Pier, LLC	Sea Dogs	401 Meade Avenue	Winter Springs	FL	(407) 327-7085
BMP	New York Mets	Port St Lucie Mets	Clover Park, 34 Piazza Drive	Cocoa Beach	FL	(407) 271-9569
BMP	Miami Grill	Miami Grill	50 NW 13 <sup>th</sup> Street	Pt St Lucie	FL	(772) 871-2100
BMP	Aspen Grove, LLC	Bruster's- Nathan's of Statesboro	995 Lovett Road	Gainesville	FL	(352) 448-6770
BMP	Vincent and Sons	Bruster's Real Ice Cream - Decatur	4790 Flat Shoals	Statesboro	GA	(912) 681-1118
BMP	Marlifoods, Inc.	Bruster's Real Ice Cream - Stone Mountain	2688 Rockbridge Road	Decatur	GA	(770) 323-9966
BMP	Vincent and Sons	Bruster's Atlanta	931 Monroe Drive	Stone Mountain	GA	(770) 469-5100
BMP	Mammoth Camping Resort	Jellystone Park	1002 Mammoth Cave Road	Atlanta	GA	(678) 234-4829
BMP	True Blue Ice Cream, Inc.	Bruster's Real Ice Cream - Georgetown	104 N. Bradford Lane	Cave City	KY	270-773-3840
BMP	Enterprise Center	Scottrade Enterprise Center	1401 Clark Ave	Georgetown	KY	(502) 570-8688
BMP	Modene Ice Cream LLC	Bruster's Real Ice Cream - Cornelius	17029 Kenton Drive	St Louis	MO	(314) 622-5400
BMP	Charlotte Premium Pizza LLC	Charlotte Premium Outlets	5404 New Fashion Way Store 616	Cornelius	NC	(704) 896-2886
BMP	4007 Nathan's, LLC	Big City Bagels/Nathan's Famous	4007 Route 9	Charlotte	NC	704-595-3352
BMP	Henry Bros, LLC	Bruster's Real Ice Cream - Sewell	305 Greentree Road	Howell	NJ	(732) 363-5858
BMP	Ferry, Inc.	Journal Square PATH Train Station	24 Path Plaza	Sewell	NJ	(856) 256-9300
BMP	Prudential Center	Prudential Center - NJ Devils Arena	25 Lafayette Street	Jersey City*	NJ	201-222-1443
BMP	Metlife Stadium	Metlife Stadium	1 Metlife Stadium Drive	Newark	NJ	(973) 757-6000
BMP	Michael O'Neill	O'Neill's Concessions Trailer	311 Mamaroneck Road	E Rutherford	NJ	(201) 559-1300
BMP	48 States Logistics, LLC	Nathan's/Pudgie's/Arthur Treacher's	662 Middle Country Road	Scarsdale	NY	(914) 943-6960
BMP	A&B Chicken, Inc.	Chicken Holiday/Nathan's Famous	1203 Grand Avenue	Selden*	NY	631-732-1080
BMP	F and A Chicken Inc	Chicken Holiday/Nathan's Famous	2713 Merrick Road	Baldwin	NY	516-505-0909
BMP	Baseball Heaven, Inc.	Baseball Heaven	350 Stills Road	Bellmore	NY	516-283-4000
BMP	Yellow to Go, LLC	Brooklyn Cart 1	2 Hanson Place (Atlantic Terminal)	Yaphank	NY	(631) 924-2123
BMP	Yellow to Go, LLC	Brooklyn Cart 2	2 Jay Street (Corner of Chappel)	Brooklyn	NY	(646) 258-8492
BMP	Yellow to Go, LLC	Brooklyn Cart 3	Court Street & Montague Street	Brooklyn	NY	(646) 258-8492
BMP	Yellow to Go, LLC	Brooklyn Cart 4	Court Street & Montague Street	Brooklyn	NY	(646) 258-8492
BMP	A&B Chicken, Inc.	Chicken Tonight/Nathan's Famous	50 Sunrise Highway	Lindenhurst	NY	(631) 957-0333
BMP	Windhorse Gas Station	Citgo/Nathan's Famous	569 Myrtle Avenue	Brooklyn	NY	(917) 402-4784
BMP	DSH Restaurant, Inc.	Wonderwheel Cart	1025 Boardwalk	Brooklyn	NY	(718) 372-2592
BMP	Bolla Operating LI Corp	Nathan's/Mobil Express	363 North Newbridge Road	Levittown	NY	(516) 827-0900
BMP	W&H Industry Corp	NYC Cart M001	Fifth Avenue & 59th Street - Central Park Side	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0010	59th Street/Broadway - Columbus Circle	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0011	72nd Street/Central Park West	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0012	19th Street/5th Avenue	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M002	Columbus Circle - Central Park Side	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0021	South Street/Montgomery Street	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0027	Astor Place/3rd Avenue	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M003	Fifth Avenue & 58th Street (Across from Bergdorf Goodman)	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M004	Broadway & 54th Street	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M005	6th Avenue & 52nd Street	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M007	14th Street & University Place - Union Square	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M008	State Street & Pearl Street	New York	NY	(833) 516-0831 x1
BMP	Legends Hospitality	Wings Of New York Yankee Stadium	1 East 161st Street, Stand 107	Bronx	NY	718) 293-4300
BMP	Legends Hospitality	New York Yankees Stadium	1 East 161st Street	Bronx	NY	718) 293-4300
BMP	Citifield Stadium	Citifield Stadium	41 Seaver Way	Queens	NY	(718) 507-8499
BMP	Barclays Center	Barclays Center	620 Atlantic Avenue	Brooklyn	NY	(917) 618-6100
BMP	Maimonedes Park	Maimonedes Park	1904 Surf Avenue	Brooklyn	NY	(718) 507-8499
BMP	W&H Industry Corp	NYC Cart M006	59th Street/6th Avenue - Central Park South	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0015	52nd Street/6th Avenue	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0016	Battery Place and Broadway - Citibank Building	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0017	83rd Street and Central Park West @ MOMA	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0018	46th Street and 6th Avenue	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0014	26 Wall Street - Federal Building	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0022	70th Street and York Avenue	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0024	22nd Street and 5th Avenue	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0026	59th Street and Grand Army Plaza	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0035	Park Row and Broadway	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0033	79th Street and Broadway	New York	NY	(833) 516-0831 x1
BMP	W&H Industry Corp	NYC Cart M0034	85th Street and Central Park West	New York	NY	(833) 516-0831 x1
BMP	South Philly, LLC	Woodbury Commons	524 Red Apple Court, Space FC10	Central Valley	NY	845-988-1061
BMP	Safadi Eatery, Inc.	Salvatore's Pizza - Arthur Treacher's	2496 West Ridge Road	Greece Ridge*	NY	(585) 227-5555
BMP	Avon Pizza Parlor, Inc.	Salvatore's Pizza - Avon	243 East Main Street	Avon*	NY	(585) 226-2555
BMP	PMG Pizza	Salvatore's Pizza - East Rochester	240 West Commerical Steet	East Rochester*	NY	(585) 381-2525
BMP	Argigento Pizza LLC	Salvatore's Pizza - Slayton Ave.	47 Slayton Avenue	Rochester	NY	(585) 202-4036
BMP	Big Silz, LLC	Salvatore's Pizza - Webster	195 North Avenue	Webster*	NY	(585) 872-2210
BMP	Ferry, Inc.	Staten Island Ferry - St. George Terminal	1 Richmond Terrace	Staten Island*	NY	(718) 524-0707
BMP	Vardan Ventures Inc.	Staten Island Ferry - Whitehall Station	4 South Street	New York	NY	(917) 536-3918
BMP	Commack Hot Dog, Inc.	Nathan's Famous/Ralph's Ices, Commack	314 Commack Road	Commack	NY	718-671-1234
BMP	Metro Franchising Commissary, LLC	Nathan's Famous	281 Walt Whitman Road	Huntington	NY	(631) 547-1685
BMP	Farmingdale Food Court Inc.	Farmingdale At Play	229 Broadhollow Road	Farmingdale	NY	(631) 766-3810
BMP	Zanos Foods	Tanger Outlets - Riverhead	1770 West Main Street, Suite 309	Riverhead	NY	(631) 727-2392

BMP	1038 Champlain QSR Inc	Valero Gas Station	1038 Route 11	Champlain	NY	(518) 298-8438
BMP	Palace Entertainment	Dutch Wonderland	2249 Lincoln Highway	Lancaster	PA	(717) 587-7031
BMP	SGRS Enterprises, LLC	Bruster's Real Ice Cream - Audubon	2814 Egypt Road	Audubon	PA	(610) 650-0264
BMP	Sweet Dream-Bruster's LLC	Bruster's Real Ice Cream - Chambersburg	500 Gateway Avenue	Chambersburg	PA	(717) 261-1484
BMP	Coho Ice Cream, LLC	Carlisle Bruster's/Nathan's	220 Penrose Place	Carlisle	PA	(717) 245-9860
BMP	Sands Bethworks Gaming, LLC	Windcreek Bethlehem Casino Resort	511 E. 3rd Street	Bethlehem	PA	(610) 751-0257
BMP	WBC Investments, LLC	Flizp Burgers	1801 N. Hobart Street	Pampa	TX	(806) 280 - 0448
BMP	Shaks, LLC	Bruster's Real Ice Cream - Culpepper	16170 Rogers Road	Culpepper	VA	(540) 825-2627
Restaurant	KD Group LLC	Danbury Fair Mall	7 Backus Avenue	Danbury	CT	(203) 730-1562
Restaurant	Areas USA FLTP, LLC	Canoe Creek Travel Plaza	Florida Turnpike, MM229	St. Cloud	FL	(407) 910-2345
Restaurant	Areas USA FLTP, LLC	Fort Drum Travel Plaza	Florida Turnpike Mile Marker 184	Okeechobee	FL	(305) 335-1668
Restaurant	Concessions Miami, LLC	Miami International Airport	Concourse H, South Terminal	Miami	FL	(305) 869-4950
Restaurant	Global Miami JV	Miami International Airport, D-22	4200 NW 25th Street, 2nd Level, D-22	Miami	FL	(305) 876-0781
Restaurant	Global Miami JV	Miami International Airport, Gate D	4200 NW 25th Street, Gate D-37	Miami	FL	(305) 876-5032
Restaurant	HMS Host Corp.	Orlando International Airport	9333 Airport Blvd.	Orlando	FL	(407) 851-1813
Restaurant	Kridak Foods, Inc.	Nathan's Famous	801 Pier Park Drive	Panama City Beach	FL	(850) 234-0024
Restaurant	ACR International 17, LLC	Nathan's Famous	12801 West Sunrise Blvd., Space 211	Sunrise	FL	(786) 340-3305
Restaurant	HMS Host Corp.	Southwest Florida International Airport	11100 Terminal Access Road, Suite 8630	Fort Meyers	FL	(239) 482-3507
Restaurant	Areas USA FLTP, LLC	Turkey Lake Travel Plaza	Florida Turnpike, Mile Post 263, Building 5315	Ocoee	FL	(407) 692-3084
Restaurant	Areas USA FLTP, LLC	West Palm Beach Travel Plaza	Florida Turnpike, Mile Marker 94	Lark Worth	FL	(561) 907-2826
Restaurant	ACR International 17, LLC	Old Town Celebration	5770 W. Irl Bronson Memorial Highway	Kissimmee	FL	(407)-479-5575
Restaurant	Vincent and Sons	Nathan's Atlanta Airport	12700 Spine Road Concourse E	Atlanta	GA	(678) 265-831
Restaurant	National Amusements, Inc.	Showcase Cinema De Lux Legacy Place	670 Legacy Place	Dedham	MA	(800) 315-4000
Restaurant	National Amusements, Inc.	Showcase Cinema De Lux Patriot Place	24 Patriot Place	Foxborough	MA	(800) 315-4000
Restaurant	National Amusements, Inc.	Blackstone Valley 14 Cinema Delux	70 Providence Worcester Highway	Millbury	MA	508-581-9546
Restaurant	National Amusements, Inc.	Showcase Cinema De Lux Randolph	73 Mazzeo Drive	Randolph	MA	(800) 315-4000
Restaurant	Areas USA FLTP, LLC	Maryland House Travel Plaza	I-95 JFK Memorial Highway Mile Marker 82	Aberdeen	MD	(443) 674-1842
Restaurant	Tribal Casino Gaming Enterprise	Harrah's Cherokee Valley River Casino - Unit A	777 Casino Parkway	Murphy*	NC	(828) 422-7777
Restaurant	Tribal Casino Gaming Enterprise	Harrah's Cherokee Valley River Casino - Unit B	777 Casino Parkway	Murphy	NC	(828) 422-7777
Restaurant	Rampas, Inc.	Bridgewater Commons	400 Commons Way	Bridgewater*	NJ	(908) 526-4115
Restaurant	Applegreen USA Welcome Centres, LLC	Jon Bon Jovi Travel Plaza	Garden State Parkway, Mile Post 124, Unit 301	South Amboy*	NJ	(732) 525-0306
Restaurant	Rohan Marwaha, LLC	Jackson Premium Outlets	537 Monmouth Road, Food Court #176	Jackson	NJ	704-595-3352
Restaurant	HMS Host Corp.	Jersey Gardens Mall	651 Kopkowski Road, Suite 400	Elizabeth*	NJ	(908) 282-4810
Restaurant	RDT Group, LLC	Jersey Shore Premium Outlets	1 Premium Outlet Way, Suite 895	Tinton Falls*	NJ	(732) 493-2772
Restaurant	Applegreen USA Welcome Centres, LLC	John Fenwick Travel Plaza	Mile Marker 5.4 North New Jersey Turnpike	Penns Grove	NJ	(856) 299-7494
Restaurant	Applegreen USA Welcome Centres, LLC	Montvale Travel Plaza	Garden State Parkway, Mile Post 172	Montvale	NJ	(201) 391-8509
Restaurant	Michael Food Service, Inc	Paramus Park Mall	Paramus Park Mall 2055	Paramus	NJ	201-599-4145
Restaurant	DBD Group	Freehold-Raceway Mall	3710 Route 9, Suite 2214	Freehold*	NJ	(732) 431-8550
Restaurant	Rockland QSR, Inc.	Rockaway Mall	301 Mount Hope Avenue	Rockaway*	NJ	(973) 442-4007
Restaurant	Willow Brook Food Express, LLC	Willowbrook Mall	1400 Willowbrook Mall	Wayne*	NJ	(973) 785-2206
Restaurant	YK Family Restaurants, LLC	SOUTH BOUNDBROOK	60 Main Street	South Boundbrook*	NJ	732-384-5242
Restaurant	Applegreen USA Welcome Centres, LLC	Richard Stockton Travel Plaza	200 Uncle Pete's Road	Trenton	NJ	609-585-1155
Restaurant	Green Brook Restaurant LLC	Fairgrounds Food Truck	Fairgrounds Food Truck	Franklin Township	NJ	(908) 420-7717
Restaurant	Montrose Management Quakerbridge, Inc.	Quakerbridge Mall	150 Quakerbridge Mall	Lawrenceville*	NJ	609-799-0073
Restaurant	Applegreen USA Welcome Centres, LLC	Grover Cleveland Travel Plaza	Marker 92.9	N. Woodbridge	NJ	732-634-2923
Restaurant	Applegreen USA Welcome Centres, LLC	Celia Cruz Rest Area	Mile Marker 74.5	Forked River	NJ	609-663-8275
Restaurant	Applegreen USA Welcome Centres, LLC	Joyce Kilmer Travel Plaza	New Jersey Turnpike, Mile Marker 78.7	E Brunswick	NJ	732-254-4225
Restaurant	Applegreen USA Welcome Centres, LLC	Walt Whitman Travel Plaza	New Jersey Turnpike, Mile Marker 30.2	Cherry Hill	NJ	856-429-9323
Restaurant	The Grove, Inc.	Harry Reid International Airport	5757 Wayne Newton Blvd. Concourse C	Las Vegas	NV	(702) 261-6454
Restaurant	Fifth Avenue Restaurant Group	Bally's Las Vegas	3645 South Las Vegas Blvd.	Las Vegas	NV	(702) 369-4013
Restaurant	Fifth Avenue Restaurant Group	Fleming Las Vegas	3645 South Las Vegas Blvd.	Las Vegas	NV	(702) 369-4013
Restaurant	Fifth Avenue Restaurant Group	Luxor Hotel & Casino	3900 Las Vegas Blvd.	Las Vegas	NV	(702) 597-3377
Restaurant	Fifth Avenue Restaurant Group	Mandalay Bay Hotel & Casino	3950 Las Vegas Blvd. South	Las Vegas	NV	(702) 367-1166
Restaurant	Fifth Avenue Restaurant Group	MGM Grand Food Court	3799 Las Vegas Blvd., South, Suite #7	Las Vegas	NV	(702) 597-0131
Restaurant	Fifth Avenue Restaurant Group	New York, New York Hotel & Casino	3790 South Las Vegas Blvd.	Las Vegas	NV	(702) 597-9114
Restaurant	HMS Host Corp.	Long Island MacArthur Airport	100 Arrival Avenue	Ronkonkoma	NY	631-285-7684
Restaurant	MAFJ Bronx Donuts LLC	Nathan's Famous	2148 White Plains Road	Bronx	NY	718-792-3686
Restaurant	Homestyle & Westchester County Center, Inc	Westchester County Center	198 Central Avenue	White Plains	NY	(914) 497 - 5421
Restaurant	National Amusements, Inc.	City Center Cinema De Lux	19 City Place	White Plains	NY	(800) 315-4000
Restaurant	National Amusements, Inc.	College Point Multiplex Cinemas	28-55 Ulmer Street	Whitestone	NY	(800) 315-4000
Restaurant	National Amusements, Inc.	Cross County Multiplex Cinemas	Two South Drive	Yonkers	NY	(800) 315-4000
Restaurant	National Amusements, Inc.	Farmingdale Multiplex Cinemas	1001 Broad Hollow Road	Farmingdale	NY	(800) 315-4000
Restaurant	National Amusements, Inc.	Island 16 Cinema De Lux	185 Morris Avenue	Holtsville	NY	(800) 315-4000
Restaurant	National Amusements, Inc.	Linden Boulevard Multiplex Cinemas	2784 Linden Boulevard	Brooklyn	NY	(800) 315-4000
Restaurant	Lucky Holdings, Inc.	Palisades Center Mall	Space FC-04	West Nyack	NY	(914) 325-9219
Restaurant	DBD Group	Poughkeepsie Galleria	2001 South Road, Space F106	Poughkeepsie*	NY	(845) 297-1335
Restaurant	D&K Kiosk Corp	Ridge Hill Mall	158 Market Street	Yonkers	NY	(646) 610-1891
Restaurant	National Amusements, Inc.	Showcase Cinema De Lux Ridge Hill	59 Fitzgerald Street at Ridge Hill	Yonkers	NY	(800) 315-4000
Restaurant	4 Guys First Food	Tanger Outlets - Deer Park	1086 The Arches Circle	Deer Park*	NY	(631) 667-6900
Restaurant	Jet Tea, LLC	Crocker Park	184 Crocker Park Boulevard	Westlake	OH	(440) 871-2333
Restaurant	National Amusements, Inc.	Springdale Cinema De Lux	12064 Springfield Pike	Springdale	OH	(800) 315-4000
Restaurant	Hershey Entertainment & Resorts Company	Hershey Park - Boardwalk	100 West Hershey Park Drive	Hershey	PA	717-534-3855
Restaurant	Hershey Entertainment & Resorts Company	Hershey Park - Rhineland Food Court	100 West Hershey Park Drive	Hershey	PA	(717) 508-1771
Restaurant	Hershey Entertainment & Resorts Company	Hershey Park - Food Truck	100 West Hershey Park Drive	Hershey	PA	(717) 508-1771
Restaurant	National Amusements, Inc.	Showcase Cinemas Warwick	1200 Quaker Lake	Warwick	RI	(800) 315-4000
Restaurant	NHNY LLC	TWIN RIVERS CASINO	100 Twin River Road	Lincoln	RI	401-475-8552
Restaurant	Nathan's South Carolina, Inc.	Myrtle Beach 8th Avenue	301 8th Avenue	Myrtle Beach*	SC	(843) 503-3230
Restaurant	Nathan's South Carolina, Inc.	South Kings Highway	1401 South Kings Highway	Myrtle Beach	SC	(843) 712-2496
Restaurant	Nathan's South Carolina, Inc.	Nathan's Famous	214 Main Street	N. Myrtle Beach*	SC	843-273-4529
Restaurant	BLKSH Properties III, LLC	Yumilicious/Nathan's Famous	295 W. Byron Nelson Boulevard, Suite 204	Roanoke	TX	817-567-3835

Restaurant White's Travel Center, LLC

White's Travel Center

2440 Raphine Road

Raphine

VA

540-817-9136

\*Indicates unit that includes Arthur Treacher's

Agreements Signed But Units Not Yet Open:

<b>Franchisee</b>	<b>City, State</b>	<b>Contact Info</b>
MCK Restaurants LLC c/o: Michael Kramkowski	Tucson, AZ	<a href="mailto:mkramkowski@cox.net">mkramkowski@cox.net</a>
J & M Hospitality, LLC c/o: Melisa Bruner	Madisonville, KY	<a href="mailto:brunermelisa@yahoo.com">brunermelisa@yahoo.com</a>

## EXHIBIT H-2

### Nathan's Famous and Arthur Treacher's Co-Branded Domestic Locations within Miami Subs Restaurants Directory as of March 26, 2023

State	City	Licensee	Store Name	Address	NF	AT
FL	Cutler Bay	Bogdan & Anna Sushkov	Miami Subs #273 Cutler Bay	18660 S Dixie Hwy, Cutler Bay, FL 33157 (p) 305-251-5816	Yes	Yes
FL	Dania	Marcus Ardelean	Miami Subs #137 Dania	1505 S. Federal Hwy Dania, FL 33004 (p) 954-922-1128	Yes	Yes
FL	Davie	Navaid & Samina Khan	Miami Subs #23 Griffin Road	4999 S. State Road 7 Davie, FL 33314 (p) 954-689-7499	Yes	Yes
FL	Ft. Lauderdale	Vladimir Ulitsky	Miami Subs #6 W. Commercial Blvd.	891 W. Commercial Blvd. Ft. Lauderdale, FL 33309 (p) 954-938-9400	Yes	Yes
FL	Ft. Lauderdale	Senturk Aymaz	Miami Subs #7 Oakland Park Blvd.	828 W. Oakland Park Blvd. Ft. Lauderdale, FL 33311 (p) 954-561-5055	Yes	Yes
FL	Ft. Lauderdale	Beau Clark	Miami Subs #16 Sunrise	661 West Sunrise Blvd. Ft. Lauderdale, FL 33311 (p) 954-768-9100	Yes	Yes
FL	Green Acres	Dr. Julian Grashoff	Miami Subs #283 Jog Road	4650 Jog Road, Green Acres, FL 33463 (p) 561-328-1280	Yes	Yes
FL	Green Acres	Bishwajit Saha	Miami Subs #20 Military Lake	4513 Lakeworth Road Green Acres, FL 33463 (p) 561-641-3999	Yes	Yes
FL	Hollywood	Paula Mikalacki	Miami Subs #28 Pembroke	1955 S. State Road 7 Hollywood, FL 33023 (p) 954-964-2222	Yes	Yes
FL	Hollywood	Antony Kallas	Miami Subs #98 28 <sup>th</sup> Avenue	2749 Hollywood Blvd. Hollywood, FL 33020 (p) 954-926-5460	Yes	Yes
FL	Jacksonville	Sebastian Espinosa & Mario Cordovez	Miami Subs #281 Jacksonville	9575 N Regency Square Jacksonville, FL 32225 (p) 904-379-7969	Yes	Yes
FL	Kendall	Jerry McDonald	Miami Subs #188/ Kendall, FL	14001 SW 88 <sup>th</sup> Street Kendall, FL 33186	Yes	No
FL	Kissimmee	Cesar Batista & Karina Caballero	Miami Subs #285	4799 W. Irla Bronson Memorial Highway, Kissimmee, FL 34746 (p) 407-785-6745	Yes	No
FL	Lake Park	Nyia Golden	Miami Subs #60 North Lake	952 North Lake Blvd. Lake Park, FL 33403 (p) 561-863-1212	Yes	Yes
FL	Lauderhill	Mahmoud Heiba	Miami Subs #30 Lauderhill	5001 N. University Drive Lauderhill, FL 33351 (p) 954-748-0900	Yes	Yes
FL	Margate	Alaa Elbiali	Miami Subs #274 Margate	619 State Road 7 Margate, FL 33063 (p) 954-366-3195	Yes	Yes

State	City	Licensee	Store Name	Address	NF	AT
FL	Miami	Jose Paredes	Miami Subs #40 167 <sup>th</sup> Street	600 NE 167 <sup>th</sup> Street Miami FL 33162 (p) 305-944-3111	Yes	Yes
FL	Miami Springs	John Nakis	Miami Subs #272	3700 NW 42 <sup>nd</sup> Avenue Miami Springs, FL 33166 (p) 786-360-2194	Yes	Yes
FL	North Miami	Juan Mendoza	Miami Subs #14 North Miami	19000 N.W. 2 <sup>nd</sup> Ave North Miami, FL 33169 (p) 305-654-7333	Yes	Yes
FL	Pembroke Pines	Juan Rivera	Miami Subs #50 Pines	7781 Pines Blvd. Pembroke Pines, FL 33024 (p) 954-963- 9698	Yes	Yes
FL	Pembroke Pines	Juan Rivera	Miami Subs #195 Pembroke Lakes	11501 Pines Blvd. Pembroke Pines, FL 33026 (p) 954-430- 8181	Yes	Yes
FL	Plantation	Vladimir Ulitsky	Miami Subs #76 Plantation	210 SW 40 <sup>th</sup> Avenue Plantation, FL 33317 (p) 954-587-9500	Yes	Yes
FL	Pompano Beach	Sinisa Mikalacki	Miami Subs #17 Sample Road	750 West Sample Road Pompano Beach, FL 33064 (p) 954-782-1270	Yes	Yes
FL	Pompano Beach	Sinisa Mikalacki	Miami Subs #22 West Atlantic	317 West Atlantic Blvd. Pompano Beach, FL 33060 (p) 954-946-0101	Yes	Yes
SC	Spartanburg	Huseyin Kaya	Miami Subs #192 Spartanburg, SC	250 Hearon Circle Spartanburg, SC 29303 (p) 864-585-3599	Yes	No

## EXHIBIT H-3

### LIST OF BRANDED PRODUCTS PROGRAM PARTICIPANTS

#### Active Accounts by State - Summary as of March 26, 2023

Alabama .....	189	New Hampshire.....	100
Alaska.....	12	New Jersey.....	1192
Arizona .....	377	New Mexico.....	188
Arkansas .....	119	New York.....	3158
California .....	1343	North Carolina .....	959
Colorado.....	224	North Dakota .....	27
Connecticut .....	380	Ohio.....	662
Delaware .....	116	Oklahoma .....	148
District of Columbia.....	129	Oregon .....	100
Florida .....	1717	Pennsylvania .....	1442
Georgia .....	471	Rhode Island .....	112
Hawaii.....	99	South Carolina.....	630
Idaho .....	43	South Dakota.....	54
Illinois .....	466	Tennessee.....	372
Indiana .....	325	Texas.....	740
Iowa.....	91	Utah.....	107
Kansas .....	109	Vermont.....	103
Kentucky .....	157	Virginia .....	694
Louisiana .....	199	Washington .....	198
Maine.....	35	West Virginia .....	107
Maryland .....	671	Wisconsin.....	121
Massachusetts .....	504	Wyoming .....	39
Michigan .....	452	Puerto Rico.....	129
Minnesota.....	334	Guam.....	3
Mississippi.....	274	U.S. Virgin Islands.....	7
Missouri.....	275		
Montana.....	50	TOTAL.....	20,913
Nebraska.....	66		
Nevada.....	294		

**Exhibit I**

**[Intentionally Deleted]**

**Exhibit J**

**List of Terminated Franchisees**

**EXHIBIT J-1**  
**NATHAN'S FAMOUS LIST OF FORMER FRANCHISEES**

The name, last known address, and telephone number of the parties that have ceased to do business pursuant to a Franchise Agreement, Nathan's Branded Menu Program License Agreement, Area Development Agreement or a Participation Agreement for a co-brand within a Nathan's Famous restaurant during our last fiscal year (March 26, 2023), or who has not communicated with us within ten weeks of the date of this disclosure document, is as follows.

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

Nathan's Restaurants (not including units that transferred to new owners):

<b>Franchisee</b>	<b>City, State</b>	<b>Contact Info</b>	<b>Arthur Treacher's</b>
Bluegrass Brats, LLC	Simpsonville, KY	502-432-3624	N
America's Hot Dog, LLC	Miami, FL	786-238-7179	N
Famous OC	Ocean City, MD	410-251-4464	N
Montrose Management, Inc.	Bayshore, NY	908-705-0262	N
Harry's Hot Dogs, LLC	Bronx, NY	631-847-0400	Y
N&N Hot Dogs, Inc.	New Windsor, NY	914-474-8567	N
Port Jefferson Bowl, LLC	Port Jefferson Station, NY	516-473-3300	N
HMS Host Corp.	Cherry Hill, NJ	240-694-4100	N

BMP (not including units that transferred to new owners):

<b>Franchisee Name</b>	<b>City, State</b>	<b>Contact Info</b>	<b>Arthur Treacher's</b>
Fun Spot America of Atlanta, Inc.	Atlanta, GA	407-363-3867	N
KWD Foodservice	Aurora, IL	631-553-0464	N
Global Montello Group Corp.	Fitchburg, MA	978-696-3568	N
Manhattan Food Guys, Inc.	New York, NY	347-259-2954	N

**Transfers to New Owners:**

Nathan's Restaurants

<b>Franchisee Name</b>	<b>City, State</b>	<b>Contact Info</b>	<b>Arthur Treacher's</b>
Universal Wealth, LLC	Roanake, TX	817-567-3835	N

BMP

<b>Franchisee Name</b>	<b>City, State</b>	<b>Contact Info</b>	<b>Arthur Treacher's</b>
Fourty Four 22, LLC	Cornelius, NC	704-896-2886	N

**EXHIBIT J-2**  
**MIAMI SUBS – LIST OF FORMER NATHAN’S FAMOUS AND**  
**ARTHUR TREACHER’S LICENSEES**

The name, last known address, and telephone number of the parties that have ceased to do business pursuant to an Arthur Treacher’s Branded Menu Program License Agreement or a Participation Agreement pursuant to which a co-branded Nathan’s Famous and/or Arthur Treacher’s was included within a Miami Subs restaurant during our last fiscal year (March 27, 2022) or who has not communicated with us within ten weeks of the date of this disclosure document, is as follows:

See Exhibit J-1 for “Yes” in the column entitled “AT”.

**Exhibit K**

**List of State Administrators**

**EXHIBIT K**  
**LIST OF STATE ADMINISTRATORS**

We intend to register this disclosure document as a "franchise" in some or all of the following states, in accordance with the applicable state laws. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, the following are the state administrators responsible for the review, registration, and oversight of franchises in these states:

<p><b>CALIFORNIA</b> Department of Financial Protection and Innovation 320 West Fourth Street, Suite 750 Los Angeles, California 90013-2344 (213) 576-7500 Toll Free: (866) 275-2677</p>	<p><b>NEW YORK</b> New York State Department of Law Investor Protection Bureau 28 Liberty Street, 21<sup>st</sup> Floor New York, New York 10005 (212) 416-8285</p>
<p><b>HAWAII</b> Commissioner of Securities of the State of Hawaii Department of Commerce &amp; Consumer Affairs Business Registration Division Securities Compliance Branch 335 Merchant Street, Room 205 Honolulu, Hawaii 96813 (808) 586-2722</p>	<p><b>NORTH DAKOTA</b> North Dakota Securities Department State Capitol Department 414 600 East Boulevard Avenue, Fifth Floor Bismarck, North Dakota 58505-0510 (701) 328-4712</p>
<p><b>ILLINOIS</b> Illinois Office of the Attorney General Franchise Bureau 500 South Second Street Springfield, Illinois 62706 (217) 782-4465</p>	<p><b>RHODE ISLAND</b> Department of Business Regulation Securities Division, Building 69, First Floor John O. Pastore Center 1511 Pontiac Avenue Cranston, Rhode Island 02920 (401) 462-9527</p>
<p><b>INDIANA</b> Secretary of State Franchise Section 302 West Washington, Room E-111 Indianapolis, Indiana 46204 (317) 232-6681</p>	<p><b>SOUTH DAKOTA</b> Division of Insurance Securities Regulation 124 South Euclid Avenue, 2<sup>nd</sup> Floor Pierre, South Dakota 57501 (605) 773-3563</p>
<p><b>MARYLAND</b> Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, Maryland 21202-2020 (410) 576-6360</p>	<p><b>VIRGINIA</b> State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street, 9th Floor Richmond, Virginia 23219 (804) 371-9051</p>
<p><b>MICHIGAN</b> Michigan Attorney General's Office Corporate Oversight Division, Franchise Section 525 West Ottawa Street G. Mennen Williams Building, 1<sup>st</sup> Floor Lansing, Michigan 48913 (517) 335-7567</p>	<p><b>WASHINGTON</b> Department of Financial Institutions Securities Division – 3<sup>rd</sup> Floor 150 Israel Road, Southwest Tumwater, Washington 98501 (360) 902-8760</p>
<p><b>MINNESOTA</b> Minnesota Department of Commerce 85 7<sup>th</sup> Place East, Suite 280 St. Paul, Minnesota 55101 (651) 539-1600</p>	<p><b>WISCONSIN</b> Division of Securities 4822 Madison Yards Way, North Tower Madison, Wisconsin 53705 (608) 266-2139</p>

**Exhibit L**

**Agents for Service of Process**

**EXHIBIT L**  
**AGENTS FOR SERVICE OF PROCESS**

We intend to register this disclosure document as a "franchise" in some or all of the following states, in accordance with the applicable state law. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, we will designate the following state offices or officials as our agents for service of process in these states:

<p><b>CALIFORNIA</b> Commissioner of Department of Financial Protection and Innovation Department of Financial Protection and Innovation 320 West Fourth Street, Suite 750 Los Angeles, California 90013-2344 (213) 576-7500 Toll Free: (866) 275-2677</p>	<p><b>NEW YORK</b> New York Secretary of State New York Department of State One Commerce Plaza, 99 Washington Avenue, 6<sup>th</sup> Floor Albany, New York 12231-0001 (518) 473-2492</p>
<p><b>HAWAII</b> Commissioner of Securities of the State of Hawaii Department of Commerce &amp; Consumer Affairs Business Registration Division Securities Compliance Branch 335 Merchant Street, Room 205 Honolulu, Hawaii 96813 (808) 586-2722</p>	<p><b>NORTH DAKOTA</b> North Dakota Securities Commissioner State Capitol 600 East Boulevard Avenue, Fifth Floor Bismarck, North Dakota 58505-0510 (701) 328-4712</p>
<p><b>ILLINOIS</b> Illinois Attorney General 500 South Second Street Springfield, Illinois 62706 (217) 782-4465</p>	<p><b>RHODE ISLAND</b> Director of Department of Business Regulation Department of Business Regulation Securities Division, Building 69, First Floor John O. Pastore Center 1511 Pontiac Avenue Cranston, Rhode Island 02920 (401) 462-9527</p>
<p><b>INDIANA</b> Secretary of State Franchise Section 302 West Washington, Room E-111 Indianapolis, Indiana 46204 (317) 232-6681</p>	<p><b>SOUTH DAKOTA</b> Division of Insurance Director of the Securities Regulation 124 South Euclid Avenue, 2<sup>nd</sup> Floor Pierre, South Dakota 57501 (605) 773-3563</p>
<p><b>MARYLAND</b> Maryland Securities Commissioner 200 St. Paul Place Baltimore, Maryland 21202-2020 (410) 576-6360</p>	<p><b>VIRGINIA</b> Clerk of the State Corporation Commission 1300 East Main Street, 1<sup>st</sup> Floor Richmond, Virginia 23219 (804) 371-9733</p>
<p><b>MICHIGAN</b> Michigan Attorney General's Office Corporate Oversight Division, Franchise Section 525 West Ottawa Street G. Mennen Williams Building, 1<sup>st</sup> Floor Lansing, Michigan 48913 (517) 335-7567</p>	<p><b>WASHINGTON</b> Director of Department of Financial Institutions Securities Division – 3<sup>rd</sup> Floor 150 Israel Road, Southwest Tumwater, Washington 98501 (360) 902-8760</p>
<p><b>MINNESOTA</b> Commissioner of Commerce Minnesota Department of Commerce 85 7<sup>th</sup> Place East, Suite 280 St. Paul, Minnesota 55101 (651) 539-1600</p>	<p><b>WISCONSIN</b> Division of Securities 4822 Madison Yards Way, North Tower Madison, Wisconsin 53705 (608) 266-2139</p>

**Exhibit M**

**Operating Manual (Table of Contents)**

PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS, INC.

Section: <b>RECEIVING &amp; STORAGE</b>	Subject No: TOC	Date: 11/95
Subject: Table of Contents	Page: 1	Approved

**RECEIVING AND STORAGE**

<b>Subject</b>	<b>Subject Number</b>
<b>Receiving</b> .....	I
Rotation Procedures	
Inspections	
Scheduling Deliveries	
<b>Storage</b> .....	II
Refrigerator Specifications	
Freezer Specifications	
<b>Dry Storage</b> .....	III
<b>Temperature Danger Zone</b> .....	IV
<b>Dating System</b> .....	V
<b>Breaking Cycles</b> .....	VI
<b>Rotation Procedures</b> .....	VII

PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS, INC.

Section: <b>FRANKFURTERS</b>	Subject No: TOC	Date: 5/99
Subject: Table of Contents	Page: 1	Approved:

**FRANKFURTERS**

<u>Subject</u>	<u>Subject Number</u>
<b>Product Description.....</b>	<b>I</b>
Frankfurter	
Frank Roll	
<b>Receiving and Storage.....</b>	<b>II</b>
Frankfurter	
Frank roll	
<b>Product Preparation Procedures.....</b>	<b>III</b>
Frankfurter	
<b>Operating Procedures.....</b>	<b>IV</b>
Set up procedures	
Cleaning/closing procedures	
Grill temperature chart	
Standards of cleaning	
<b>Finished Frankfurter Appearance.....</b>	<b>V</b>
<b>Service Procedures.....</b>	<b>VI</b>

PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS, INC.

Section: <b>FRENCH FRIES</b>	Subject No: TOC	Date: 4/05
Subject: Table of Contents	Page: 1	Approved:

**FRENCH FRIES**

Subject \_\_\_\_\_ Subject  
Number

Product Description..... I

French Fries  
 Corn Oil

Product Preparation ..... II

Preparation  
 Cooking Service Procedures  
 Potential Product Problems :Trouble shooting Guide

Corn Oil Maintenance ..... III

Routine Maintenance  
 Filtering Procedures  
 Boiling out fryers

Troubleshooting Guide

PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS, INC.

Section: <b>TOPPINGS</b>	Subject No: TOC	Date: 11/95
Subject: Table of Contents	Page: 1	Approved:

**TOPPINGS**

<b><u>Subject</u></b>	<b><u>Subject</u></b>
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<b>Chili.....</b>	<b>III</b>
<b>Sauteed Onions.....</b>	<b>IV</b>
<b>Sliced American Cheese.....</b>	<b>V</b>
<b>Bacon.....</b>	<b>VI</b>
<b>Operating Procedures.....</b>	<b>VII</b>
Topping Table Set Up	
Topping Table Closing	
<b>Microwave Cooking Chart.....</b>	<b>VII</b>
<b>Topping Portion Chart.....</b>	<b>IX</b>

PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS,  
INC

Section: <b>CONDIMENTS</b>	Subject No: TOC	Date: 1/03
Subject: Table of Contents	Page: 1	Approved:

**CONDIMENTS**

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<b>Ketchup (Bulk).....</b>	<b>II</b>
<b>Mustard (Bulk).....</b>	<b>III</b>
<b>Relish (Bulk).....</b>	<b>IV</b>
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<b>Tomatoes.....</b>	<b>VII</b>
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<b>Salt and Pepper Packets.....</b>	<b>XII</b>
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**PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS, INC**

<b>Section: CONDIMENTS</b>	<b>Subject No: TOC</b>	<b>Date: 1/03</b>
<b>Subject: Table of Contents</b>	<b>Page: 2</b>	<b>Approved:</b>

<b><u>Subject</u></b>	<b><u>Subject Number</u></b>
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PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS,  
INC

Section: BEVERAGES	Subject No: TOC	Date: 1/03
Subject: Table of Contents	Page: 1	Approved:

**BEVERAGES**

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Lemonade .....	III
Jet Spray maintenance	
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PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS,  
INC

Section: <b>FRIED CHICKEN</b>	Subject No: TOC	Date: 11/95
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**FRIED CHICKEN**

<b><u>Subject</u></b>	<b><u>Subject Number</u></b>
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Frying Instructions .....	III
Assembly and Service Procedures .....	IV

PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS, INC.

Section: <b>CHICKEN BREAST</b>	Subject No: TOC	Date: 2/05
Subject: Table of Contents	Page: 1	Approved

**CHICKEN BREAST**

**Subject** \_\_\_\_\_ **Subject Number**

**Char-broiled Chicken..... I**

- Product Description
- Receiving and Storage
- Cooking Procedure
- Assembly and Service
- Variations of Char-broiled Chicken Sandwiches
- Assembly of Chicken Pitas

PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS, INC.

Section: <b>HOT DOG NUGGETS AND CHICKEN TENDERS</b>	Subject No: TOC	Date: 2/02
Subject: Table of Contents	Page: 1	Approved

**NUGGETS & TENDERS**

**Subject** \_\_\_\_\_ **Subject Number**

**Hot Dog Nuggets ..... I**

- Product Description
- Receiving and Storage
- Frying Instructions
- Assembly and Service Problems

**Chicken Tenders..... II**

- Product Description
- Receiving and Storage
- Frying Instructions
- Assembly and Service Problems
- Krispy Chicken Tender Platter
- Krispy Chicken Pita

PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS, INC.

Section: <b>SEAFOOD</b>	Subject No: TOC	Date: 11/95
Subject: Table of Contents	Page: 1	Approved

**SEAFOOD**

Subject \_\_\_\_\_ Subject Number

**Fried Clam Strips** ..... I  
 Product Description  
 Receiving and Storage  
 Frying Procedure  
 Finished Appearance  
 Production Schedule  
 Assembly and Service

**Fish Filet** ..... II  
 Product Description  
 Receiving and Storage  
 Frying Procedure  
 Finishing Procedure  
 Production Schedule  
 Assembly and Service

**Fried Shrimp** ..... III  
 Product Description  
 Receiving and Storage  
 Frying Procedure  
 Finished Appearance  
 Production Schedule  
 Assembly and Service

PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS, INC.

Section: <b>HAMBURGERS</b>	Subject No: TOC	Date: 11/95
Subject: Table of Contents	Page: 1	Approved

**HAMBURGERS**

Subject	Subject Number
Product Description .....	I
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Cooking Assembly and Service Procedures .....	III
Super Cheeseburger	
Hamburger with Cheese	
Bacon Cheeseburger	
Double Beef Burger with Cheese	
Production Schedule .....	IV
Roll Warming Procedure ( stores without roll toasters) .....	V

PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS, INC.

Section: <b>MISCELLANEOUS</b>	Subject No: TOC	Date: 2/02
Subject: Table of Contents	Page: 1	Approved

**MISCELLANEOUS**

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PRODUCT SPECIFICATIONS & PROCEDURES: NATHAN’S FAMOUS, INC.

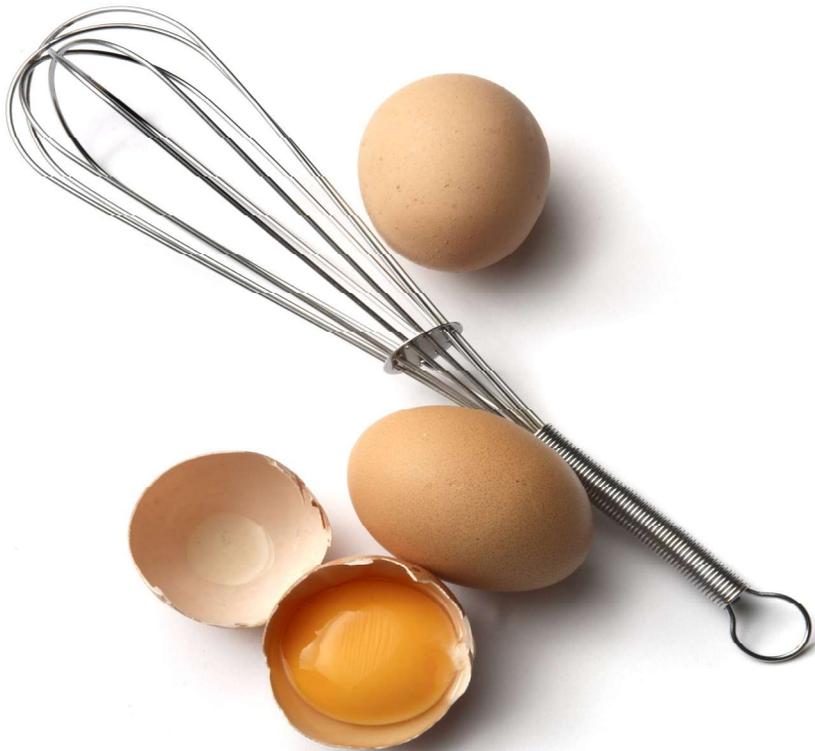
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**MISCELLANEOUS**

<b><u>Subject</u></b>	<b><u>Subject Number</u></b>
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**Exhibit M-1**

**Supplemental Manual (Index)**



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All Rights Reserved*

## **Ingredients**

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**Bacon Cooking**

**Bacon Bits**

**Bread Thawing & Storage**

**Burger Panning**

**Caramelized Onions**

**Celery**

**Cheese Sauce**

**Chicken Panning**

**Chicken Batter**

**Chili Scratch Recipe**

**Chili Heating**

**Green Onions**

**Hot Dog Prep**

**Jalapeño Slicing**

**Lemon Wedges**

**Lemonade / Orangeade**

**Microwave Cooking Chart**

**Mild Creamy Buffalo Sauce**

**Onions Sliced for Rings**

**Onions Diced**

**Parsley Chopped**

## Ingredients - Cont.

---

Salt & Pepper (Burger Blend)

Sauerkraut

Sauteed Onions

Steak Sauce

Tomatoes Sliced

Waffle Mix

Waffle Cooking

Whipped Cream

## Recipe Basics

---

1. Always work with clean, sanitized and gloved hands
2. Wash rinse and sanitize work surfaces, cutting boards and utensils before and after each prep activity
3. Check temperatures with a digital thermometer; do not rely on equipment temperature settings alone
4. Keep food out of the danger zone: (40°-140°F/4.4°-10°C)
5. Place raw meats in containers on ice and/or prep small quantities at a time to maintain temperature
6. Place cooked food in preheated steam tables. Never use steam tables to heat food
7. Raw meat and poultry should always be cooked to a safe minimum internal temperature. Refer to recipe standard
8. Label, date and cover all food products
9. Never combine old and new product. Always replace pans and utensils when adding new product to the cook line
10. Follow all cooking and holding times; discard expired product

**Exhibit N**

**Audited Financial Statements of Nathan's Famous Systems, Inc.  
(for Fiscal Years 2023, 2022 and 2021)**

FINANCIAL STATEMENTS AND REPORT OF  
INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

**NATHAN'S FAMOUS SYSTEMS, INC.**  
**(a wholly-owned subsidiary of Nathan's Famous, Inc.)**

As of March 26, 2023 and March 27, 2022 and  
for the periods ended March 26, 2023, March 27, 2022 and March 28, 2021

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Statements of Earnings	6
Statements of Stockholder's Equity	7
Statements of Cash Flows	8
Notes to Financial Statements	9 – 25

**INDEPENDENT AUDITORS' REPORT**

To the Board of Directors and Shareholders of  
Nathan's Famous Systems, Inc.

***Opinion***

We have audited the financial statements of Nathan's Famous Systems, Inc., which comprise the balance sheets as of March 26, 2023 and March 27, 2022, and the related statements of earnings, stockholder's equity and cash flows for the fifty-two weeks ended March 26, 2023, March 27, 2022 and March 28, 2021, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of Nathan's Famous Systems, Inc. as of March 26, 2023 and March 27, 2022, and the results of its operations and its cash flows for the fifty-two weeks ended March 26, 2023, March 27, 2022 and March 28, 2021 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 Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Nathan's Famous Systems, Inc. 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.

***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 Nathan's Famous Systems, Inc.'s ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

## *Auditors' 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 auditors' 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 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 Nathan's Famous Systems, Inc.'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 Nathan's Famous Systems, Inc.'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.

*Marcum LLP*

New York, NY  
July 21, 2023

Nathan's Famous Systems, Inc.

**BALANCE SHEETS**

ASSETS	<u>March 26, 2023</u>	<u>March 27, 2022</u>
CURRENT ASSETS:		
Cash	\$ 7,337	\$ 2,342
Accounts receivable, net	14,893,379	13,121,273
Inventories	410,247	390,754
Prepaid expenses	<u>347,342</u>	<u>131,355</u>
Total current assets	15,658,305	13,645,724
PROPERTY AND EQUIPMENT, NET	195,149	193,350
RECEIVABLES FROM AFFILIATES, NET (Note H)	28,099,580	28,667,201
DEFERRED INCOME TAXES	585,860	581,605
OTHER ASSETS, NET	<u>54,858</u>	<u>75,428</u>
TOTAL ASSETS	<u>\$ 44,593,752</u>	<u>\$ 43,163,308</u>
LIABILITIES AND STOCKHOLDER'S EQUITY		
CURRENT LIABILITIES:		
Accounts payable	\$ 6,040,908	\$ 5,834,836
Accrued expenses and other current liabilities	2,113,332	1,126,637
Deferred franchise and area development fees	<u>328,098</u>	<u>339,827</u>
Total current liabilities	8,482,338	7,301,300
DEFERRED FRANCHISE AND AREA DEVELOPMENT FEES	1,230,401	1,682,526
OTHER LIABILITIES	<u>736,653</u>	<u>673,918</u>
TOTAL LIABILITIES	<u>10,449,392</u>	<u>9,657,744</u>
CONTINGENCIES (Note G)		
STOCKHOLDER'S EQUITY:		
Common stock, \$.01 par value; 1,000 shares authorized; 100 shares issued and outstanding	1	1
Additional paid-in capital	999,999	999,999
Retained earnings	<u>33,144,360</u>	<u>32,505,564</u>
	<u>34,144,360</u>	<u>33,505,564</u>
TOTAL LIABILITIES AND STOCKHOLDER'S EQUITY	<u>\$ 44,593,752</u>	<u>\$ 43,163,308</u>

*The accompanying notes are an integral part of these financial statements.*

Nathan's Famous Systems, Inc.

**STATEMENTS OF EARNINGS**

	<b>Fifty-two weeks ended March 26, 2023</b>	Fifty-two weeks ended March 27, 2022	Fifty-two weeks ended March 28, 2021
Revenues:			
Sales	\$ 78,884,484	\$ 66,321,648	\$ 33,616,664
License royalties	33,455,285	31,824,273	31,368,347
Franchise fees and royalties	4,183,679	3,758,429	1,530,512
Royalties from affiliate (Note H)	486,438	436,212	308,359
Advertising fund revenue	<u>2,054,089</u>	<u>2,026,815</u>	<u>1,582,109</u>
Total revenues	<u>119,063,975</u>	<u>104,367,377</u>	<u>68,405,991</u>
Costs and expenses:			
Cost of sales	67,645,841	57,941,893	27,240,970
Management fee from affiliate (Note H)	9,344,766	8,928,911	8,358,210
Bad debt expense	498,369	114,511	101,188
Depreciation	131,680	162,539	247,046
Advertising fund expense	<u>2,048,770</u>	<u>2,051,231</u>	<u>1,335,015</u>
Total costs and expenses	<u>79,669,426</u>	<u>69,199,085</u>	<u>37,282,429</u>
Income from operations	<u>39,394,549</u>	<u>35,168,292</u>	<u>31,123,562</u>
Other expense	<u>(3,684)</u>	<u>(690)</u>	<u>(453)</u>
Income before provision for income taxes	39,390,865	35,167,602	31,123,109
Provision for income taxes	<u>9,752,069</u>	<u>8,713,402</u>	<u>7,884,167</u>
NET INCOME	<u>\$ 29,638,796</u>	<u>\$ 26,454,200</u>	<u>\$ 23,238,942</u>

*The accompanying notes are an integral part of these financial statements.*

Nathan's Famous Systems, Inc.

**STATEMENTS OF STOCKHOLDER'S EQUITY**

Fifty-two weeks ended March 26, 2023, March 27, 2022 and March 28, 2021

	Common stock		Additional paid-in capital	Retained earnings	Total stockholder's equity
	Shares	Amount			
Balance, March 29, 2020	<u>100</u>	<u>\$ 1</u>	<u>\$999,999</u>	<u>\$38,812,422</u>	<u>\$39,812,422</u>
Non-cash dividend distributed to affiliate	-	-	-	(28,000,000)	(28,000,000)
Net income	<u>-</u>	<u>-</u>	<u>-</u>	<u>23,238,942</u>	<u>23,238,942</u>
Balance, March 28, 2021	<u>100</u>	<u>\$ 1</u>	<u>\$999,999</u>	<u>\$34,051,364</u>	<u>\$35,051,364</u>
Non-cash dividend distributed to affiliate	-	-	-	(28,000,000)	(28,000,000)
Net income	<u>-</u>	<u>-</u>	<u>-</u>	<u>26,454,200</u>	<u>26,454,200</u>
Balance, March 27, 2022	<u>100</u>	<u>\$ 1</u>	<u>\$999,999</u>	<u>\$32,505,564</u>	<u>\$33,505,564</u>
Non-cash dividend distributed to affiliate	-	-	-	(29,000,000)	(29,000,000)
Net income	<u>-</u>	<u>-</u>	<u>-</u>	<u>29,638,796</u>	<u>29,638,796</u>
<b>Balance, March 26, 2023</b>	<u><b>100</b></u>	<u><b>\$ 1</b></u>	<u><b>\$999,999</b></u>	<u><b>\$33,144,360</b></u>	<u><b>\$34,144,360</b></u>

*The accompanying notes are an integral part of these financial statements.*

Nathan's Famous Systems, Inc.

**STATEMENTS OF CASH FLOWS**

	<b>Fifty-two weeks ended March 26, 2023</b>	Fifty-two weeks ended March 27, 2022	Fifty-two weeks ended March 28, 2021
Cash flows from operating activities			
Net income	<b>\$ 29,638,796</b>	\$ 26,454,200	\$ 23,238,942
Adjustments to reconcile net income to net cash provided by operating activities			
Depreciation	<b>131,680</b>	162,539	247,046
Bad debt expense	<b>498,369</b>	114,511	101,188
Deferred income taxes	<b>(4,255)</b>	(21,477)	(61,221)
Changes in operating assets and liabilities			
Accounts receivable	<b>(2,270,475)</b>	(1,883,292)	(849,796)
Inventories	<b>(19,493)</b>	2,792	(141,929)
Prepaid expenses and other current assets	<b>(215,987)</b>	(49,742)	(13,789)
Receivables from affiliates, net	<b>(28,432,379)</b>	(27,604,041)	(22,915,475)
Other assets, net	<b>20,570</b>	20,572	20,571
Accounts payable, accrued expenses and other current liabilities	<b>1,192,767</b>	2,609,755	403,716
Deferred franchise and area development fees	<b>(463,854)</b>	347,726	(131,640)
Other liabilities	<b><u>62,735</u></b>	<u>20,627</u>	<u>86,186</u>
Net cash provided by (used in) operating activities	<b><u>138,474</u></b>	<u>174,170</u>	<u>(16,201)</u>
Cash flows from investing activities			
Purchases of equipment	<b><u>(133,479)</u></b>	<u>(174,170)</u>	<u>(77,144)</u>
Net cash used in investing activities	<b><u>(133,479)</u></b>	<u>(174,170)</u>	<u>(77,144)</u>
Net increase (decrease) in cash	<b>4,995</b>	-	(93,345)
Cash, beginning of year	<u>2,342</u>	<u>2,342</u>	<u>95,687</u>
Cash, end of year	<b><u>\$ 7,337</u></b>	<b><u>\$ 2,342</u></b>	<b><u>\$ 2,342</u></b>
Non-cash financing activities:			
Non-cash dividend distributed to affiliate	<b><u>\$ 29,000,000</u></b>	<b><u>\$ 28,000,000</u></b>	<b><u>\$ 28,000,000</u></b>

*The accompanying notes are an integral part of these financial statements.*

## NOTES TO FINANCIAL STATEMENTS

March 26, 2023, March 27, 2022 and March 28, 2021

### NOTE A - DESCRIPTION AND ORGANIZATION OF BUSINESS

Nathan's Famous Systems, Inc. (the "Company" or "Systems") is a wholly-owned subsidiary of Nathan's Famous Operating Corporation ("NFOC"), which is a wholly-owned subsidiary of Nathan's Famous, Inc. ("NFI"). NFOC is the operator of four restaurants and Systems is the franchisor of 232 locations operating in 17 states and 13 foreign countries. The Company was incorporated on December 8, 1993 in the State of Delaware. Effective January 1, 1994, the Company assumed the franchise operations of NFI.

The Company has various license agreements with outside third parties to produce packaged hot dogs and other products according to the Company's proprietary recipes and/or spice formulation and to use "Nathan's Famous" and related trademarks to sell these products on an exclusive basis in the United States to supermarkets, grocery channels and other outlets.

The Company has established a Branded Product Program, in which approved food service operators may offer Nathan's hot dogs and other proprietary items for sale within their facilities. The Company sells the products directly to various distributors who are permitted to sell these proprietary products to retailers upon approval by the Company. As of March 26, 2023, the Branded Product Program distributed product in all 50 states, the District of Columbia, Puerto Rico, Canada, the U.S. Virgin Islands, Guam and Mexico.

The Company began franchising its Branded Menu Program during its fiscal year ended March 30, 2008, which provides qualified foodservice operators the ability to offer an expanded Nathan's Famous menu than that offered by the Branded Product Program. The operator is required to sign a 10-year license agreement and pays a fee to Systems. Systems does not collect a royalty directly from the operator and the operator is not required to report sales to Systems as required by the standard franchise arrangements.

In fiscal 2021, the Company opened its first virtual kitchens (existing kitchens with no Nathan's Famous branded storefront presence, used to fill online orders). At March 26, 2023, there were 267 virtual kitchens operating in 19 states and 4 foreign countries.

#### **COVID-19 and Macroeconomic Conditions**

The outbreak of the COVID-19 pandemic in March 2020 had a number of adverse effects on our business including a reduction in customer traffic at our Company-owned restaurants and our franchised locations, as well as difficulty in staffing these locations. Additionally, it hampered many of our Branded Product Program customers including professional sports venues, amusement parks, shopping malls and movie theaters. While the disruptions to our business from the COVID-19 pandemic have mostly subsided, the resurgence of COVID-19 or its variants, as well as an outbreak of other widespread health epidemics or pandemics, may disrupt our operations and have an adverse effect on our business, financial condition and results of operations.

## NOTES TO FINANCIAL STATEMENTS

March 26, 2023, March 27, 2022 and March 28, 2021

During fiscal 2023, the Company continued to experience rising labor costs, as well as higher commodity prices, packaging costs and fuel prices. We expect this trend to continue into fiscal 2024. Our average cost of hot dogs for the fiscal 2023 period was approximately 1.4% higher than during the fiscal 2022 period. In general, we have been able to offset increases resulting from inflation by increasing prices. We continue to monitor these inflationary pressures and will continue to implement mitigation plans as needed. Delays in implementing price increases, competitive pressures, consumer spending levels and other factors may limit our ability to implement further price increases in the future.

The extent to which COVID-19 and inflation will impact the Company will depend on future developments, which cannot be predicted. Such impacts may include non-cash asset impairments and difficulty collecting trade receivables, among other things.

### NOTE B - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The following significant accounting policies have been applied in the preparation of the financial statements.

1. *Fiscal Year*

The Company's fiscal year ends on the last Sunday in March, which will result in a 52 or 53 week year. The fiscal years ended March 26, 2023, March 27, 2022 and March 28, 2021 were each on the basis of a 52 week reporting period. All references to years relate to fiscal periods rather than calendar periods.

2. *Use of Estimates*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("GAAP") 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 reporting period. Actual results could differ from those estimates due to risks and uncertainties, including uncertainty in the current economic environment due to the COVID-19 pandemic and other factors. Significant estimates made by management in preparing the financial statements include revenue recognition, the allowance for doubtful accounts, accounting for income taxes and the valuation of long-lived assets.

**NOTES TO FINANCIAL STATEMENTS**

March 26, 2023, March 27, 2022 and March 28, 2021

3. *Inventories*

Inventories, which are stated at the lower of cost or net realizable value, consist primarily of food, beverages, and paper supplies. Cost is determined using the first-in, first-out method.

4. *Property and Equipment, Net*

Property and equipment, net, are stated at cost less accumulated depreciation. Depreciation is calculated on a straight-line basis over the estimated useful life of the related assets. The range of the estimated useful lives is 3 - 5 years.

5. *Fair Value of Financial Instruments*

The carrying amounts of cash, accounts receivable, and accounts payable approximate fair value due to the short-term nature of those items.

6. *Revenue Recognition - Branded Product Program*

The Company recognizes sales from the Branded Product Program and certain products sold from the Branded Menu Program upon delivery to Nathan's customers via third party common carrier. Rebates provided to customers are classified as a reduction to sales.

7. *Revenue Recognition – License Royalties*

The Company earns revenue from royalties on the licensing of the use of its intellectual property in connection with certain products produced and sold by outside vendors. The use of the Company's intellectual property must be approved by the Company prior to each specific application to ensure proper quality and a consistent image. Revenue from license royalties is generally based on a percentage of sales, subject to certain annual minimum royalties, recognized on a monthly basis when it is earned and deemed collectible.

## NOTES TO FINANCIAL STATEMENTS

March 26, 2023, March 27, 2022 and March 28, 2021

### 8. *Revenue Recognition – Franchising Operations*

In connection with its franchising operations, the Company receives initial franchise fees, international development fees, royalties, and in certain cases, revenue from sub-leasing restaurant properties to franchisees.

The following services are typically provided by the Company prior to the opening of a franchised restaurant.

- Approval of all site selections to be developed.
- Provision of architectural plans suitable for restaurants to be developed.
- Assistance in establishing building design specifications, reviewing construction compliance and equipping the restaurant.
- Provision of appropriate menus to coordinate with the restaurant design and locations to be developed.
- Provision of management training for the new franchisee and selected staff.
- Assistance with the initial operations of restaurants being developed.

The services provided in exchange for these upfront restaurant franchise fees do not contain separate and distinct performance obligations from the franchising right and these initial franchise fees, renewal fees and transfer fees are deferred and recognized over the term of each respective agreement, or upon termination of the franchise agreement.

The services provided in exchange for these international development fees do not contain separate and distinct performance obligations from the franchising right and these international development fees are deferred and recognized over the term of each respective agreement, or upon termination of the franchise agreement. Certain other costs, such as legal expenses, are expensed as incurred.

The Company recognizes franchise royalties on a monthly basis, which are generally based upon a percentage of sales made by the Company's franchisees, including virtual kitchens, when they are earned and deemed collectible. The Company recognizes royalty revenue from its Branded Menu Program directly from the sale of Nathan's products by its distributors or directly from the manufacturers.

Franchise fees and royalties that are subsequently deemed to be not collectible are recorded as bad debts until paid by the franchisee or until collectability is deemed to be reasonably assured.

**NOTES TO FINANCIAL STATEMENTS**

March 26, 2023, March 27, 2022 and March 28, 2021

The following is a summary of franchise openings and closings (excluding virtual kitchens) for the Nathan's franchise restaurant system for the fiscal years ended March 26, 2023, March 27, 2022 and March 28, 2021:

	<b><u>March 26,</u></b> <b><u>2023</u></b>	March 27, <u>2022</u>	March 28, <u>2021</u>
Franchised restaurants operating at the beginning of the period	239	213	216
New franchised restaurants opened during the period	11	54	7
Franchised restaurants closed during the period	<u>(18)</u>	<u>(28)</u>	<u>(10)</u>
Franchised restaurants operating at the end of the period	<u>232</u>	<u>239</u>	<u>213</u>

*Contract balances*

The following table provides information about contract liabilities from contracts with customers:

	<b><u>March 26, 2023</u></b>	<u>March 27, 2022</u>
Deferred franchise fees (a)	<b>\$1,558,499</b>	\$2,022,353
Deferred revenues, which are included in "Accrued expenses and other current liabilities" (b)	<b>\$1,406,339</b>	\$ 875,936

- (a) Deferred franchise fees of \$328,098 and \$1,230,401 as of March 26, 2023 and \$339,827 and \$1,682,526 as of March 27, 2022 are included in Deferred franchise and area development fees – current and long term, respectively.
- (b) Includes \$906,339 of deferred license royalties and \$500,000 of deferred advertising revenue as of March 26, 2023 and \$875,936 of deferred license royalties as of March 27, 2022.

**NOTES TO FINANCIAL STATEMENTS**

March 26, 2023, March 27, 2022 and March 28, 2021

Significant changes in deferred franchise and area development fees for the fiscal years ended March 26, 2023 and March 27, 2022 are as follows:

	<b><u>March 26, 2023</u></b>	<b><u>March 27, 2022</u></b>
Deferred franchise fees at beginning of period	<b>\$2,022,353</b>	\$1,674,627
New deferrals due to cash received and other	<b>167,375</b>	877,749
Revenue recognized during the period	<b>(631,229)</b>	<b>(530,023)</b>
Deferred franchise fees at end of period	<b><u>\$1,558,499</u></b>	<b><u>\$2,022,353</u></b>

Significant changes in deferred revenues for the fiscal years ended March 26, 2023 and March 27, 2022 are as follows:

	<b><u>March 26, 2023</u></b>	<b><u>March 27, 2022</u></b>
Deferred revenues at beginning of period	<b>\$ 875,936</b>	\$ 848,104
New deferrals due to cash received and other	<b>1,828,976</b>	1,243,597
Revenue recognized during the period	<b>(1,298,573)</b>	<b>(1,215,765)</b>
Deferred revenues at end of period	<b><u>\$1,406,339</u></b>	<b><u>\$ 875,936</u></b>

*Anticipated future recognition of deferred franchise and area development fees*

The following table reflects the estimated franchise fees to be recognized in the future related to performance obligations that are unsatisfied at the end of the period:

	<b><u>Estimate for fiscal year</u></b>
2024	\$ 328,098
2025	314,608
2026	283,356
2027	167,029
2028	73,354
Thereafter	<u>392,054</u>
Total	<b><u>\$ 1,558,499</u></b>

We have applied the optional exemption, as provided for under Topic 606 "Revenue from Contracts with Customers", which allows us not to disclose the transaction price allocated to unsatisfied performance obligations when the transaction price is a sales-based royalty.

## NOTES TO FINANCIAL STATEMENTS

March 26, 2023, March 27, 2022 and March 28, 2021

### 9. *Revenue Recognition – National Advertising Fund*

The Company maintains a national advertising fund (the "Advertising Fund") established to collect and administer funds contributed for use in advertising and promotional programs for Company-owned and franchised restaurants.

The revenue, expenses and cash flows of the Advertising Fund are fully consolidated into the Company's Consolidated Statements of Earnings and Statements of Cash Flows.

While this treatment impacts the gross amount of reported advertising fund revenue and related expenses, the impact is expected to approximately offset the increase to both revenue and expense, with minimal impact to income from operations or net income because the Company attempts to manage the Advertising Fund to breakeven over the course of the fiscal year. However, any surplus or deficit in the Advertising Fund will impact income from operations and net income.

### 10. *NFOC Store Royalties*

Restaurants owned by NFOC that operate under the Nathan's brand are charged a royalty of 4% of restaurant sales by the Company.

### 11. *Business Concentrations and Geographical Information*

The Company's accounts receivable consists principally of receivables from franchisees, including virtual kitchens, for royalties and advertising contributions, from sales under the Branded Product Program, and from royalties from retail licensees. At March 26, 2023, three Branded Product customers represented 23%, 14% and 12% of accounts receivable. At March 27, 2022, three Branded Product customers represented 20%, 16% and 14% of accounts receivable. At March 28, 2021, two Branded Product customers represented 20% and 15% of accounts receivable.

For the fiscal year ended March 26, 2023, three Branded Product customers and one licensee represented 20%, 10%, 9% and 26%, respectively, of total revenues. For the fiscal year ended March 27, 2022, three Branded Product customers and one licensee represented 17%, 11%, 10% and 29%, respectively, of total revenues. For the fiscal year ended March 28, 2021, one Branded Product customer and one licensee represented 10% and 43%, respectively, of total revenues.

The Company's primary supplier of hot dogs represented 99%, of product purchases for each of the fiscal years ended March 26, 2023, March 27, 2022 and March 28, 2021.

**NOTES TO FINANCIAL STATEMENTS**

March 26, 2023, March 27, 2022 and March 28, 2021

The Company's revenues for the fiscal years ended March 26, 2023, March 27, 2022 and March 28, 2021 were derived from the following geographic areas:

	<u>March 26, 2023</u>	<u>March 27, 2022</u>	<u>March 28, 2021</u>
Domestic (United States)	\$ 113,166,386	\$ 101,144,266	\$ 67,303,694
Non-domestic	<u>5,897,589</u>	<u>3,223,111</u>	<u>1,102,297</u>
	<u>\$119,063,975</u>	<u>\$104,367,377</u>	<u>\$ 68,405,991</u>

The Company's revenues for the fiscal years ended March 26, 2023, March 27, 2022 and March 28, 2021 were derived from the following:

	<u>March 26, 2023</u>	<u>March 27, 2022</u>	<u>March 28, 2021</u>
Total Branded Products sales	\$ 78,884,484	\$ 66,321,648	\$ 33,616,664
License royalties	\$ 33,455,285	\$ 31,824,273	\$ 31,368,347
Royalties	\$ 3,552,450	\$ 3,228,406	\$ 1,250,105
Franchise fees	<u>631,229</u>	<u>530,023</u>	<u>280,407</u>
Total franchise fees and royalties	<u>\$ 4,183,679</u>	<u>\$ 3,758,429</u>	<u>\$ 1,530,512</u>
Royalties from affiliate	\$ 486,438	\$ 436,212	\$ 308,359
Advertising fund revenue	<u>\$ 2,054,089</u>	<u>\$ 2,026,815</u>	<u>\$ 1,582,109</u>
Total revenues	<u>\$119,063,975</u>	<u>\$104,367,377</u>	<u>\$ 68,405,991</u>

12. *Advertising*

The Company administers an advertising fund on behalf of its franchisees to coordinate the marketing efforts of the Nathan's Famous Franchise System. Under these system arrangements, the Company collects and disburses fees paid by manufacturers, franchisees and NFOC's company-owned stores for national and regional advertising, promotional and public relations programs. Contributions to the advertising fund are based on specified percentages of net sales, generally ranging up to 2%.

## NOTES TO FINANCIAL STATEMENTS

March 26, 2023, March 27, 2022 and March 28, 2021

### 13. *Income Taxes*

The Company files consolidated Federal and state income tax returns with NFI. The Company also files separate tax returns in a number of states where required. Systems determines its provision for income taxes using the separate return method. The allocation of tax expense is based on what Systems' current and deferred tax expense would be had it filed separate tax returns. Current Federal and state tax liabilities are recorded through the receivable from affiliate accounts.

The Company's current provision for income taxes is based upon its estimated taxable income in each of the jurisdictions in which it operates, after considering the impact on taxable income of temporary differences resulting from different treatment of items for tax and financial reporting purposes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and any operating loss or tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the year in which those temporary differences are expected to be recovered or settled. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income in those periods in which temporary differences become deductible. Should management determine that it is more likely than not that some portion of the deferred tax assets will not be realized, a valuation allowance against the deferred tax assets would be established in the period such determination was made.

### 14. *Uncertain Tax Positions*

The Company has recorded liabilities for underpayment of income taxes and related interest and penalties for uncertain tax positions based on the determination of whether tax benefits claimed or expected to be claimed on a tax return should be recorded in the financial statements. The Company may recognize the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities based on the technical merits of the position. The tax benefits recognized in the financial statements from such position should be measured based on the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement. The Company recognizes accrued interest and penalties associated with unrecognized tax benefits as part of the income tax provision.

See Note F for further discussion of our income taxes.

**NOTES TO FINANCIAL STATEMENTS**

March 26, 2023, March 27, 2022 and March 28, 2021

15. *New Accounting Standard Not Yet Adopted*

In June 2016, the FASB issued ASU 2016-13, “*Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*,” which significantly changes the impairment model for most financial instruments. Current guidance requires the recognition of credit losses based on an incurred loss impairment methodology that reflects losses once the losses are probable. Under the new standard, the Company will be required to use a current expected credit loss model (“CECL”) that will immediately recognize an estimate of credit losses that are expected to occur over the life of the consolidated financial instruments that are in the scope of this update, including trade receivables. The CECL model uses a broader range of reasonable and supportable information in the development of credit loss estimates. The Company will adopt the new guidance on a modified retrospective basis beginning with its first fiscal quarter of 2024. The adoption of this guidance is not expected to have a material impact on our financial statements.

The Company does not believe that any other recently issued, but not yet effective accounting standards, when adopted, will have a material effect on the accompanying financial statements.

**NOTE C – ACCOUNTS RECEIVABLE, NET**

Accounts receivable, net, consist of the following:

	<u>March 26, 2023</u>	<u>March 27, 2022</u>
Branded product sales	<b>\$11,105,678</b>	\$ 9,318,307
Franchise and license royalties	<b>3,793,043</b>	3,929,494
Other	<u>460,872</u>	<u>-</u>
	<b>15,359,593</b>	13,247,801
Less: allowance for doubtful accounts	<u>(466,214)</u>	<u>(126,528)</u>
Accounts receivable, net	<b><u>\$14,893,379</u></b>	<b><u>\$13,121,273</u></b>

Accounts receivable are generally due within 30 days and are stated at amounts due from franchisees, including virtual kitchens, retail licensees, customers under the Branded Product Program, and customers and manufacturers under the Branded Menu Program, net of an allowance for doubtful accounts. Accounts that are outstanding longer than the contractual payment terms are generally considered past due. The Company does not recognize franchise and license royalties that are not deemed to be realizable.

**NOTES TO FINANCIAL STATEMENTS**

March 26, 2023, March 27, 2022 and March 28, 2021

The Company individually reviews each past due account and determines its allowance for doubtful accounts by considering a number of factors including the length of time accounts receivable are past due, the Company's previous loss history, the customer's current and expected future ability to pay its obligation to the Company, the condition of the general economy and the industry as a whole. Based on management's assessment, the Company provides for estimated uncollectible amounts through a charge to earnings. After the Company has used reasonable collection efforts, it writes off accounts receivable through a charge to the allowance for doubtful accounts.

Changes in the Company's allowance for doubtful accounts for the fiscal years ended March 26, 2023 and March 27, 2022 are as follows:

	<u>March 26, 2023</u>	<u>March 27, 2022</u>
Beginning balance	\$ 126,528	\$ 344,548
Bad debt expense	498,369	114,511
Write offs and other	<u>(158,683)</u>	<u>(332,531)</u>
Ending balance	<u>\$ 466,214</u>	<u>\$ 126,528</u>

**NOTE D - PROPERTY AND EQUIPMENT, NET**

Property and equipment, net, consists of the following:

	<u>March 26, 2023</u>	<u>March 27, 2022</u>
Equipment	\$ 649,587	\$ 713,792
Exhibition booth	<u>196,063</u>	<u>196,063</u>
Total property and equipment	845,650	909,855
Less accumulated depreciation	<u>(650,501)</u>	<u>(716,505)</u>
Property and equipment, net	<u>\$ 195,149</u>	<u>\$ 193,350</u>

**NOTES TO FINANCIAL STATEMENTS**

March 26, 2023, March 27, 2022 and March 28, 2021

**NOTE E – ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES**

Accrued expenses and other current liabilities consist of the following:

	<u>March 26, 2023</u>	<u>March 27, 2022</u>
Accrued sales allowances	\$ 698,092	\$ 247,783
Unexpended advertising funds	2,342	2,342
Deferred revenue	1,406,339	875,936
Other	6,559	576
Total accrued expenses and other current liabilities	<u>\$ 2,113,332</u>	<u>\$ 1,126,637</u>

**NOTE F - INCOME TAXES**

The provision for income taxes for the fiscal years ended March 26, 2023, March 27, 2022 and March 28, 2021 consists of:

	<u>March 26, 2023</u>	<u>March 27, 2022</u>	<u>March 28, 2021</u>
Federal			
Current	\$ 7,796,299	\$ 6,968,569	\$ 6,210,077
Deferred	<u>(420)</u>	<u>(23,475)</u>	<u>(54,843)</u>
	<u>7,795,879</u>	<u>6,945,094</u>	<u>6,155,234</u>
State			
Current	1,960,025	1,766,310	1,735,312
Deferred	<u>(3,835)</u>	<u>1,998</u>	<u>(6,379)</u>
	<u>1,956,190</u>	<u>1,768,308</u>	<u>1,728,933</u>
	<u>\$ 9,752,069</u>	<u>\$ 8,713,402</u>	<u>\$ 7,884,167</u>

The Company's effective tax rate for the fiscal years ended March 26, 2023, March 27, 2022 and March 28, 2021 is 24.76%, 24.78% and 25.33%, respectively. The effective tax rate varied from the U.S. Federal income tax rate of 21% primarily due to the variable impact of state income taxes.

**NOTES TO FINANCIAL STATEMENTS**

March 26, 2023, March 27, 2022 and March 28, 2021

Significant components of deferred taxes are as follows:

	<u>March 26, 2023</u>	<u>March 27, 2022</u>
Deferred tax assets:		
Deferred revenue	\$ 391,242	\$ 502,128
Allowance for doubtful accounts	117,037	31,415
Other	<u>134,917</u>	<u>122,905</u>
Total gross deferred tax assets	<u>\$ 643,196</u>	<u>\$ 656,448</u>
Deferred tax liabilities:		
Depreciation expense	\$ 48,955	\$ 47,970
Deductible prepaid expenses	<u>8,381</u>	<u>26,873</u>
Total gross deferred tax liabilities	<u>\$ 57,336</u>	<u>\$ 74,843</u>
Net deferred tax assets	<u>\$ 585,860</u>	<u>\$ 581,605</u>

A valuation allowance is provided when it is more likely than not that some portion, or all, of the deferred tax assets will not be realized. We consider the level of historical taxable income, scheduled reversal of temporary differences, tax planning strategies and projected future taxable income in determining whether a valuation allowance is warranted. Based upon these considerations, management believes that it is more likely than not that the Company will realize the benefit of its net deferred tax asset.

The following is a tabular reconciliation of the total amounts of unrecognized tax benefits, excluding interest and penalties, for the fiscal years ended March 26, 2023 and March 27, 2022:

	<u>March 26, 2023</u>	<u>March 27, 2022</u>
Unrecognized tax benefits, beginning of year	\$ 402,817	\$ 397,268
Increases based on tax positions taken in current year	44,934	37,621
Settlements of tax positions taken in prior years	-	(12,732)
Decreases of tax positions taken in prior years	<u>(15,748)</u>	<u>(19,340)</u>
Unrecognized tax benefits, end of year	<u>\$ 432,003</u>	<u>\$ 402,817</u>

**NOTES TO FINANCIAL STATEMENTS**

March 26, 2023, March 27, 2022 and March 28, 2021

The amount of unrecognized tax benefits included in Other Liabilities at March 26, 2023 and March 27, 2022 was \$432,003 and \$402,817, respectively, all of which would impact the Company's effective tax rate, if recognized. As of March 26, 2023 and March 27, 2022, the Company had approximately \$305,000 and \$271,000, respectively, accrued for the payment of interest and penalties. For the fiscal years ended March 26, 2023, March 27, 2022 and March 28, 2021 the Company recognized interest and penalties in the amounts of \$33,000, \$15,000 and \$(3,000), respectively. During the fiscal year ending March 31, 2024, the Company will seek to settle additional uncertain tax positions with the tax authorities. As a result, it is reasonably possible the amount of unrecognized tax benefits, excluding the related accrued interest and penalties, could be reduced by up to \$19,000, due primarily to the lapse of statutes of limitations which would favorably impact the Company's effective tax rate, although no assurances can be given in this regard.

The earliest tax years' that are subject to examination by taxing authorities by major jurisdictions are as follows:

<b><u>Jurisdiction</u></b>	<b><u>Fiscal Year</u></b>
Federal	2020
New York State	2020
New York City	2020
New Jersey	2019
California	2019

**NOTE G - CONTINGENCIES**

The Company is from time to time involved in ordinary and routine litigation. Management presently believes that the ultimate outcome of these proceedings, individually or in the aggregate, will not have a material adverse effect on the Company's financial position, cash flows or results of operations. Nevertheless, litigation is subject to inherent uncertainties and unfavorable rulings could occur. An unfavorable ruling could include money damages and, in such event, could result in a material adverse impact on the Company's results of operations for the period in which the ruling occurs.

## NOTES TO FINANCIAL STATEMENTS

March 26, 2023, March 27, 2022 and March 28, 2021

### *Guarantee of NFI Senior Secured Notes*

On November 1, 2017, NFI sold \$150.0 million of 6.625% Senior Secured Notes due 2025 (the "2025 Notes") which were guaranteed by substantially all of its subsidiaries, including Systems. The Note Guarantees are joint and several obligations of Systems and the other Guarantors. The obligations of each Guarantor under its Note Guarantee will be limited as necessary to prevent that Note Guarantee from constituting a fraudulent conveyance under applicable law. NFI used the net proceeds of the 2025 Notes to redeem the 10.00% Senior Secured Notes due 2020 (the "2020 Notes"). As a result of the redemption of the 2020 Notes, all obligations of the Note Guarantors under the Note Guarantees executed in connection with the 2020 Notes were released and discharged.

The Note Guarantee of a Guarantor will be automatically released:

- (1) in connection with any sale, transfer or other disposition of all or substantially all of the assets of that Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) the Issuer or a Restricted Subsidiary of the Issuer, if the sale, transfer or other disposition does not violate the provisions of the indenture;
- (2) in connection with any sale, transfer or other disposition of Capital Stock of that Guarantor to a Person that is not (either before or after giving effect to such transaction) the Issuer or a Restricted Subsidiary of the Issuer, if (a) following the sale or other disposition, such Guarantor is no longer a Restricted Subsidiary of the Issuer and (b) the sale, transfer or other disposition does not violate the provisions of the indenture;
- (3) if the Issuer designates any Restricted Subsidiary of the Issuer that is a Guarantor to be an Unrestricted Subsidiary in accordance with the applicable provisions of the indenture;
- (4) upon the release or discharge of such Guarantor from its liability in respect of the guarantee which created the obligation on the part of such Guarantor to provide a Note Guarantee, except a release or discharge by or as a result of payment under such guarantee; or
- (5) upon legal defeasance or covenant defeasance or satisfaction and discharge of the indenture.

## NOTES TO FINANCIAL STATEMENTS

March 26, 2023, March 27, 2022 and March 28, 2021

The obligations of NFI with respect to the notes, the obligations of Systems and the other Guarantors under the Note Guarantees and the performance of all other obligations of NFI, Systems and the other Guarantors under the Note Documents will be secured by Parity Liens in the Collateral granted to the collateral trustee for the benefit of the holders of notes. The Collateral will include substantially all of the assets of NFI, Systems and the other Guarantors, other than real property, (collectively, the "Pledgors"), including a pledge of the Capital Stock of each future Subsidiary which would be restricted that will be owned directly by the Pledgors. The Parity Liens will be junior in priority to the Priority Liens securing the Priority Lien Obligations and will also be subject, as to priority, to certain other Permitted Liens. The Priority Lien Representative will hold any certificates representing Capital Stock, instruments and other certificated collateral as bailee for the Parity Lien Creditors until such time as the Priority Lien Obligations are no longer outstanding, at which time such Capital Stock, instruments and other certificated collateral will be delivered promptly to the collateral trustee.

On January 26, 2022, NFI redeemed \$40,000,000 in aggregate principal amount of the 2025 Notes. On March 21, 2023, NFI redeemed an additional \$30,000,000 in aggregate principal amount of the 2025 Notes. As of March 26, 2023, \$80,000,000 of the 2025 Notes were outstanding.

As of March 26, 2023, NFI has made all required payments pursuant to the terms of the Indenture. On May 1, 2023, NFI paid its first semi-annual interest payment of fiscal 2024.

### NOTE H - RELATED PARTY TRANSACTIONS

The Company is affiliated through common ownership by NFOC with Nathan's Famous Services, Inc. ("Services"). Services provides administrative, professional, real estate and managerial services to the Company, for which the Company was charged management fees of \$9,344,766, \$8,928,911 and \$8,358,210 for the fiscal years ended March 26, 2023, March 27, 2022 and March 28, 2021, respectively.

The Company also receives a royalty from NFOC based on 4% of restaurant sales for those restaurants operated by NFOC. This royalty amounted to \$486,438, \$436,212 and \$308,359 for the fiscal years ended March 26, 2023, March 27, 2022 and March 28, 2021, respectively.

The Company also receives Advertising fund revenue from NFOC based on 0.5% of restaurant sales for those restaurants operated by NFOC. This Advertising fund revenue amounted to \$60,787, \$54,506 and \$38,546 for the fiscal years ended March 26, 2023 and March 27, 2022 and March 28, 2021, respectively.

## **NOTES TO FINANCIAL STATEMENTS**

March 26, 2023, March 27, 2022 and March 28, 2021

At March 26, 2023 and March 27, 2022, the Company had receivables from affiliates, net, of \$28,099,580 and \$28,667,201, respectively, which arose primarily from the operating activities of the Company. From time to time, the Company declares and distributes noncash dividends to NFOC and reduces the amounts of receivables from affiliates, net. The Company declared and distributed dividends to NFOC in the amount of \$29,000,000, \$28,000,000 and \$28,000,000 during the fiscal years ended March 26, 2023, March 27, 2022 and March 28, 2021, respectively. The receivables from affiliates, net, are not expected to be satisfied in cash from the Company's affiliates and are presented as long-term in the accompanying balance sheets.

The Company's product purchases, which are primarily for the Company's Branded Product Program, are billed to and paid by NFI or other affiliates. The accounts payable associated with such purchases are included as a reduction of receivables from affiliates, net, in the accompanying balance sheets as such amounts serve to reduce the amounts owed to the Company by NFI and other affiliates and are not expected to be paid in cash by the Company to NFI or other affiliates.

### **NOTE I – SUBSEQUENT EVENTS**

On June 6, 2023, the Company declared and distributed non-cash dividends to NFOC in the amount of \$30,000,000, which will reduce its receivables from affiliates, net by the same amount.

**EXHIBIT O**

**Franchisee Compliance Certification**

As you know, you and Nathan’s Famous Systems, Inc. (the “**Franchisor**”) are preparing to enter into a License Agreement for the establishment and operation of a *Nathan’s* or Arthur Treacher’s BMP Operation (a “**Restaurant**” or “**Franchise**”). The purpose of this Questionnaire is to determine whether any statements or promises were made to you that the Franchisor has not authorized and that may be untrue, inaccurate, or misleading. Please review each of the following questions and statements carefully and provide honest and complete responses to each.

1. The following dates and information are true and correct:

a. \_\_\_\_\_,202\_\_\_\_\_ The date of my first face-to-face meeting with any person to discuss the possible purchase of a Franchise.  
Initials \_\_\_\_\_

b. \_\_\_\_\_,202\_\_\_\_\_ The date on which I received Franchisor’s Franchise Disclosure Document (“**FDD**”).  
Initials \_\_\_\_\_

c. \_\_\_\_\_,202\_\_\_\_\_ The date when I received a fully completed copy (other than signatures) of the Branded Menu Program License Agreement (collectively, the “**Agreement**”), and Addenda (if any), and all other related documents I later signed.  
Initials \_\_\_\_\_

d. \_\_\_\_\_,202\_\_\_\_\_ The date on which I signed the Branded Menu Program License Agreement.  
Initials \_\_\_\_\_

2. Have you received and personally reviewed the Branded Menu Program License Agreement, and each Addendum and related agreement attached to it?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Do you understand all of the information contained in the Agreements and each Addendum and related agreement provided to you?

Yes \_\_\_\_\_ No \_\_\_\_\_

If no, what parts of the Agreements, Addenda, and/or related agreement do you not understand? (Attach additional pages, as needed.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Have you received and personally reviewed the FDD that was provided to you?

Yes \_\_\_\_\_ No \_\_\_\_\_

**Franchise Applicant’s Initials** \_\_\_\_\_

**Franchisee Compliance Certification**  
**Page 1 of 5**

5. Did you sign a receipt for the FDD indicating the date you received it?

Yes \_\_\_\_\_ No \_\_\_\_\_

6. Do you understand all of the information contained in the FDD and any state-specific Addendum to the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

If No, what parts of the FDD and/or Addenda do you not understand? (Attach additional pages, as needed.)

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7. Have you discussed the benefits and risks of establishing and operating a Franchise with an attorney, accountant, or other professional advisor?

Yes \_\_\_\_\_ No \_\_\_\_\_

Have you had the FDD and Agreements reviewed by an attorney, accountant, or other professional advisor?

Yes \_\_\_\_\_ No \_\_\_\_\_

If No to either question, do you wish to have more time to do so?

Yes \_\_\_\_\_ No \_\_\_\_\_

8. Do you understand that the success or failure of your Franchise will depend in large part upon your skills and abilities, competition from other businesses, interest rates, inflation, labor and supply costs, lease terms and other economic and business factors?

Yes \_\_\_\_\_ No \_\_\_\_\_

9. Do you understand that no agreement or addendum is effective until it is also signed and dated by the Franchisor?

Yes \_\_\_\_\_ No \_\_\_\_\_

10. Do you understand that there are no promises, representations (other than in the FDD) agreements, "side deals," or other arrangements, written or oral, that are not in the Agreements, addenda, and other agreements attached to the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

**Franchise Applicant's Initials** \_\_\_\_\_

**Franchisee Compliance Certification**  
**Page 2 of 5**

11. If you have answered "No" to any one of questions 8-10, please provide a full explanation of each No answer in the following blank lines. (Attach additional pages, as needed, and refer to them below.) If you have answered "Yes" to each of questions 8-10, please leave the following lines blank.

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12. Has any employee or other person speaking for the Franchisor made any statement or promise concerning the revenues, profits or operating costs of a Franchise operated by the Franchisor or its franchisees, that is contrary to the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

13. Has anyone speaking on the Franchisor's behalf made any statement or promise regarding the amount of money you may earn in operating the Franchise that is contrary to the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

14. Has anyone speaking on the Franchisor's behalf made any statement or promise concerning the total amount of revenue the Franchise will generate, that is contrary to the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

15. Has anyone speaking on the Franchisor's behalf made any statement or promise regarding the costs you may incur in operating the Franchise that is contrary to or different from, the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

16. Has anyone speaking on the Franchisor's behalf made any statement or promise concerning the likelihood of success that you should or might expect to achieve from operating a Franchise?

Yes \_\_\_\_\_ No \_\_\_\_\_

17. Has anyone speaking on the Franchisor's behalf made any statement, promise or agreement concerning the advertising, marketing, training, support service or assistance that the Franchisor will provide to you that is contrary to, or different from, the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

18. Have you entered into any binding agreement with the Franchisor concerning the purchase of this franchise before today?

Yes \_\_\_\_\_ No \_\_\_\_\_

**Franchise Applicant's Initials** \_\_\_\_\_

**Franchisee Compliance Certification**  
**Page 3 of 5**

19. Have you paid any money to the Franchisor concerning the purchase of this Franchise before today?

Yes \_\_\_\_\_ No \_\_\_\_\_

20. If you have answered "Yes" to any one of questions 12-19, please provide a full explanation of each Yes answer in the following blank lines. (Attach additional pages, as needed, and refer to them below.) If you have answered "No" to each of questions 12-19, please leave the following lines blank.

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21. Do you understand that all disputes and claims you may have under the Agreement and any other agreement with the Franchisor must be heard in the courts of New York (if they cannot be informally resolved or by mediation)?

Yes \_\_\_\_\_ No \_\_\_\_\_

22. Do you understand that the Agreement provides that you can only collect compensatory damages on any claim under or related to the Agreements and not any consequential or punitive damages?

Yes \_\_\_\_\_ No \_\_\_\_\_

23. Do you understand that the Agreements includes a waiver of jury trials?

Yes \_\_\_\_\_ No \_\_\_\_\_

24. I have spoken with current and former *Nathan's* licensees, and I chose which licensees, and how many licensees, to speak with.

Yes \_\_\_\_\_ No \_\_\_\_\_

25. During my negotiations and evaluations leading up to my decision to buy a *Nathan's* Franchise, I communicated with the following individuals from Nathan's Famous Systems, Inc. or its affiliates, or independent brokers:

Name

Address

1.	_____
2.	_____
3.	_____
4.	_____

[Insert additional names and addresses below if needed]

**Franchise Applicant's Initials** \_\_\_\_\_

**Franchisee Compliance Certification**  
**Page 4 of 5**

Your responses to these questions are important to us and we will rely on them.

By signing this Questionnaire, you are representing to us that you have responded honestly, accurately, and completely to each of the above questions.

FRANCHISE APPLICANT

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Printed Name

\_\_\_\_\_, 202\_\_\_\_  
Date

\* This questionnaire does not waive any liability the franchisor may have under the Washington Franchise Investment Protection Act, RCW 19.100, and the rules adopted thereunder.

**The following language applies only to transactions governed by the Maryland Franchise Registration and Disclosure Law:**

Do not sign this Questionnaire if you are a resident of Maryland or the franchise is to be operated in Maryland.

**Franchise Applicant's Initials\_\_\_\_\_**

**Franchisee Compliance Certification  
Page 5 of 5**

**Exhibit P**

**State-Specific Amendments to the Disclosure Document**

**EXHIBIT P-1**

**STATE SPECIFIC DISCLOSURES**

**ADDITIONAL DISCLOSURE DOCUMENT DISCLOSURES**

**REQUIRED BY THE STATE OF CALIFORNIA, HAWAII, ILLINOIS, INDIANA, MARYLAND, MICHIGAN, MINNESOTA, NEW YORK, NORTH DAKOTA, RHODE ISLAND, VIRGINIA, WASHINGTON AND WISCONSIN.**

**No Waiver of Disclaimer of Reliance in Certain States.** The following provision applies only to franchisees and franchises that are subject to the state franchise disclosure laws in California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, Virginia, Washington and Wisconsin:

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## Hawaii Disclosure

The following paragraphs are to be added in the state cover page:

THESE FRANCHISES WILL HAVE BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE COMMISSIONER OF SECURITIES, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE COMMISSIONER OF SECURITIES, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.

THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE, OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY THE FRANCHISEE, WHICHEVER OCCURS FIRST, A COPY OF THE DISCLOSURE DOCUMENT, AND THIS ADDENDUM, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.

THIS ADDENDUM AND THE DISCLOSURE DOCUMENT CONTAIN A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND FRANCHISEE.

The name and address of the Franchisor's agent in this state authorized to receive service of process is: Commissioner of Securities, Department of Commerce and Consumer Affairs, Business Registration Division, Securities Compliance Branch, 335 Merchant Street, Room 203, Honolulu, Hawaii 96813.

In recognition of the requirements of the Hawaii Franchise Investment Law, Hawaii Rev. Stat. §§ 482E, *et seq.*, the Franchise Disclosure Document for Nathan's Famous Systems, Inc. in connection with the offer and sale of franchises for use in the State of Hawaii shall be amended to include the following:

1. Item 20 "List of Outlets," shall be amended by the addition of the following paragraph:

This proposed registration is effective/exempt from registration or will shortly be on file in California, Hawaii, Illinois, Indiana, Kentucky, Maryland, Michigan, Minnesota, Nebraska, New York, North Dakota, South Dakota, Texas, Utah, Virginia, Washington, and Wisconsin. No states have refused, by order or otherwise, to register these franchises. No states have revoked or suspended the right to offer these franchises. The proposed registration of these franchises has not been involuntarily withdrawn in any state.

2. Each provision of this Addendum to the Disclosure document shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Hawaii Franchise Investment Law, Hawaii Rev. Stat. §§ 482E, *et seq.*, are met independently without reference to this Addendum to the Disclosure document.

## **EXHIBIT P-2**

### **Illinois Disclosure**

In recognition of the requirements of the Illinois Franchise Disclosure Act, III. Comp. Stat. §§ 705/1 to 705/44 the Franchise Disclosure Document for Nathan's Famous Systems, Inc. for use in the State of Illinois shall be amended as follows:

1. The "Summary" section of Item 17 (v), entitled Choice of Forum, is amended by adding the following language:

However, any provision in the Franchise Agreement that designates jurisdiction or venue in a forum outside of the State of Illinois is void under section 4 of the current Illinois Franchise Disclosure Act, although the Franchise Agreement may provide for arbitration in a forum outside of the State of Illinois.

2. The "Summary" section of Item 17 (w), entitled Choice of Law, is amended by adding the following language:

However, except for federal law, Illinois law applies if the jurisdictional requirements of the Illinois Franchise Disclosure Act of 1987 (as amended) are met.

3. Each provision of this addendum shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Illinois Franchise Disclosure Act are met independently, without reference to this addendum.

## EXHIBIT P-3

### Maryland Disclosure

In recognition of the requirements of the Maryland Franchise Registration and Disclosure Law, MD. Code Ann. Bus. Reg. §§ 14-201 et seq., the Franchise Disclosure Document for Nathan's Famous Systems, Inc. for use in the State of Maryland shall be amended to include the following

1. **Item 17 is amended by adding the following language after the table:**

- (a) You may sue in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law (the "**Maryland Law**"). Any claims arising under the Maryland law must be brought within 3 years after the grant of the franchise.
- (b) The provision in the agreements which provide for termination upon bankruptcy of the franchisee may not be enforceable under Federal Bankruptcy Law (11 U.S.C. Section 1010 et seq.)

2. **Exhibit O to the Franchise Disclosure Document (Franchisee Compliance Certification) is amended by adding the following language:**

All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration Law.

## EXHIBIT P-4

### Michigan Disclosure

**THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU:**

**(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 IN THIS ACT. THIS SHALL NOT PRECLUDE A FRANCHISEE, AFTER ENTERING INTO A FRANCHISE AGREEMENT, FROM SETTLING ANY AND ALL CLAIMS.**

**(C) A PROVISION THAT PERMITS A FRANCHISOR TO TERMINATE A FRANCHISE PRIOR TO THE EXPIRATION OF ITS TERM EXCEPT FOR GOOD CAUSE. GOOD CAUSE SHALL INCLUDE THE FAILURE OF THE FRANCHISEE TO COMPLY WITH ANY LAWFUL PROVISIONS 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 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 FRANCHISED BUSINESS ARE NOT SUBJECT TO COMPENSATION. THIS SUBSECTION APPLIES ONLY IF: (i) THE TERM OF THE FRANCHISE IS LESS THAN 5 YEARS; AND (ii) THE FRANCHISEE IS PROHIBITED BY THE FRANCHISE OR OTHER AGREEMENT FROM CONTINUING TO CONDUCT SUBSTANTIALLY THE SAME BUSINESS UNDER ANOTHER TRADEMARK, SERVICE MARK, TRADE NAME, LOGOTYPE, ADVERTISING, OR OTHER COMMERCIAL SYMBOL IN THE SAME AREA SUBSEQUENT TO THE EXPIRATION OF THE FRANCHISE OR THE FRANCHISEE DOES NOT RECEIVE AT LEAST 6 MONTHS ADVANCE NOTICE OF FRANCHISOR'S INTENT NOT TO RENEW THE FRANCHISE.**

**(E) A PROVISION THAT PERMITS THE FRANCHISOR TO REFUSE TO RENEW A FRANCHISE ON TERMS GENERALLY AVAILABLE TO OTHER FRANCHISEES OF THE SAME CLASS OR TYPE UNDER SIMILAR CIRCUMSTANCES. THIS SECTION DOES NOT REQUIRE A RENEWAL PROVISION.**

**(F) A PROVISION REQUIRING THAT ARBITRATION (see note below \*) OR LITIGATION BE CONDUCTED OUTSIDE THIS STATE. THIS SHALL NOT PRECLUDE THE FRANCHISEE FROM ENTERING INTO AN AGREEMENT, AT THE TIME OF ARBITRATION, TO CONDUCT ARBITRATION AT A LOCATION OUTSIDE THIS STATE.**

**(G) A PROVISION WHICH PERMITS A FRANCHISOR TO REFUSE TO PERMIT A TRANSFER OF OWNERSHIP OF A FRANCHISE, EXCEPT FOR GOOD CAUSE. THIS SUBDIVISION DOES NOT PREVENT A FRANCHISOR FROM EXERCISING A RIGHT OF FIRST REFUSAL TO PURCHASE THE FRANCHISE. GOOD CAUSE SHALL INCLUDE, BUT IS NOT LIMITED TO:**

**(i) THE FAILURE OF THE PROPOSED TRANSFEREE TO MEET THE FRANCHISOR'S THEN CURRENT REASONABLE QUALIFICATIONS OR STANDARDS.**

**(ii) THE FACT THAT THE PROPOSED TRANSFEREE IS A COMPETITOR OF THE FRANCHISOR OR SUBFRANCHISOR.**

**(iii) THE UNWILLINGNESS OF THE PROPOSED TRANSFEREE TO AGREE IN WRITING TO COMPLY WITH ALL LAWFUL OBLIGATIONS.**

**(iv) THE FAILURE OF THE FRANCHISEE OR PROPOSED TRANSFEREE TO PAY ANY SUMS OWING TO THE FRANCHISOR OR TO CURE ANY DEFAULT IN THE FRANCHISE AGREEMENT EXISTING AT THE TIME OF THE PROPOSED TRANSFER.**

**(H) A PROVISION THAT REQUIRES THE FRANCHISEE TO RESELL TO THE FRANCHISOR ITEMS THAT ARE NOT UNIQUELY IDENTIFIED WITH THE FRANCHISOR. THIS SUBDIVISION DOES NOT PROHIBIT A PROVISION THAT GRANTS TO A FRANCHISOR A RIGHT OF FIRST REFUSAL TO PURCHASE THE ASSETS OF A 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 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).**

**(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 DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE ATTORNEY GENERAL.**

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\* A federal court held that this provision of the Michigan law was preempted by the Federal Arbitration Act and therefore is not enforceable.

\* \* \* \*

**THE NAME AND ADDRESS OF THE FRANCHISOR'S AGENT IN THIS STATE AUTHORIZED TO RECEIVE SERVICE OF PROCESS IS: MICHIGAN DEPARTMENT OF COMMERCE, CORPORATION AND SECURITIES BUREAU, 6546 MERCANTILE WAY, P.O. BOX 30222, LANSING, MICHIGAN 48910.**

\* \* \* \*

**ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO:**

**DEPARTMENT OF THE ATTORNEY GENERAL'S OFFICE  
CONSUMER PROTECTION DIVISION  
ATTN: FRANCHISE  
670 G. MENNEN WILLIAMS BUILDING  
LANSING, MICHIGAN 48913**

## EXHIBIT P-5

### Minnesota Disclosure

In recognition of the requirements of the Minnesota Franchises Law, Minn. Stat. §§ 80C.01 through 80C.22, and of the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce, Minn. Rules §§ 2860.0100 through 2860.9930, the Franchise Disclosure Document for Nathan's Famous Systems, Inc. for use in the State of Minnesota shall be amended to include the following:

1. Item 13, "Trademarks," shall be amended by the addition of the following paragraph at the end of the Item:

Pursuant to Minnesota Stat. Sec. 80C.12, Subd. 1(g), we are required to protect any rights which you have to use our proprietary marks.

2. Item 17, "Renewal, Termination, Transfer and Dispute Resolution," shall be amended by the addition of the following paragraphs:

With respect to franchisees governed by Minnesota law, we 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 of non-renewal of the Franchise Agreement, and that consent to the transfer of the franchise not be unreasonably withheld.

Pursuant to Minn. Rule 2860.4400D, any general release of claims that you or a transferor may have against us or our shareholders, directors, employees and agents, including without limitation claims arising under federal, state, and local laws and regulations shall exclude claims you or a transferor may have under the Minnesota Franchise Law and the Rules and Regulations promulgated thereunder by the Commissioner of Commerce.

Minn. Stat. § 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document or agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to jury trial, any procedure, forum, or remedies as may be provided for by the laws of the jurisdiction.

3. Each provision of this addendum shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Minnesota Franchises Law or the Rules and Regulations promulgated thereunder by the Minnesota Commission of Commerce are met independently without reference to this addendum to the disclosure document.

## **EXHIBIT P-6**

### **Rhode Island Disclosure**

In recognition of the requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34 the Franchise Disclosure Document for Nathan's Famous Systems, Inc. for use in the State of Rhode Island shall be amended to include the following:

1. Item 17, "Renewal, Termination, Transfer and Dispute Resolution," shall be amended by the addition of the following:

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."

2. This addendum to the disclosure document shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34, are met independently without reference to this addendum to the disclosure document.

## **EXHIBIT P-7**

### **Washington Disclosure**

In recognition of the requirements of the Washington Franchise Investment Protection Act, Wash. Rev. Code §§ 19.100.180, the Franchise Disclosure Document for Nathan's Famous Systems, Inc. in connection with the offer and sale of franchises for use in the State of Washington shall be amended to include the following:

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

RCW 19.100.180 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 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.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder 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.

## **EXHIBIT P-8**

### **Virginia Disclosure**

1. The Cover Page shall be amended by the addition of the following risk factor:

THE FRANCHISEE WILL NOT RECEIVE AN EXCLUSIVE TERRITORY. PLEASE REFER TO ITEM 12 OF THIS DISCLOSURE DOCUMENT FOR DETAILS.

2. In recognition of the restrictions contained in Section 13.1564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for Nathan's Famous Systems, Inc. for use in the Commonwealth of Virginia shall be amended as follows:

Nothing in the [Franchise] [Development] Agreement shall be interpreted or construed in a manner inconsistent with the requirements of Va. Code § Sec. 13.1-564, which provides that "[i]t shall be unlawful for a franchisor to cancel a franchise without reasonable cause or to use undue influence to induce a franchisee to surrender any right given to him by any provision contained in the franchise."

**Exhibit Q**

**State-Specific Amendments to the Various Agreements**

## EXHIBIT Q-1

### Hawaii Franchise Agreement Amendment

In recognition of the requirements of Hawaii Franchise Investment Law, Hawaii Rev. Stat. §§ 482E, *et seq.*, the parties to the attached Nathan's Famous Systems, Inc. Franchise Agreement (the "Agreement") agree as follows:

1. Section 2.2.7, under the heading "Term and Renewal," is deleted in its entirety, and shall have no force or effect; and the following paragraph shall be substituted in lieu thereof:

2.2.7 You agree to sign and deliver to us a release, in a form that we will provide (which will be a mutual release with limited exclusions), which will release all claims against us and our affiliates, and our respective officers, directors, agents, and employees. If you are an entity, then your affiliates and your direct and indirect owners (and any other parties that we reasonably request) must also sign and deliver that release to us; excluding only such claims as Franchisee may have under the Hawaii Franchise Investment Law; and

2. Section 16.5.1, under the heading "Transfer of Interest," is deleted in its entirety, and shall have no force or effect; and the following paragraph shall be substituted in lieu thereof:

16.5.1 The transferor must have executed a general release, in a form satisfactory to us, of any and all claims against us and our affiliates, successors, and assigns, and their respective directors, officers, shareholders, partners, agents, representatives, servants, and employees in their corporate and individual capacities including, without limitation, claims arising under this Agreement, any other agreement between you and us, and/or our respective affiliates, and federal, state, and local laws and rules; excluding only such claims as Franchisee may have under the Hawaii Franchise Investment Law.

3. Section 18, under the heading "Obligations Upon Termination or Expiration," shall be amended by the addition of the following new paragraph 18.13, which shall be considered an integral part of the Agreement:

18.13 Notwithstanding anything to the contrary in this Section 18, we shall comply with Hawaii law which currently requires that we compensate you upon termination or refusal to renew the franchise for the fair market value, at the time of the termination or expiration of the franchise, of any inventory, supplies, equipment and furnishings which were purchased from us or a supplier designated by us. Personalized materials which have no value to us need not be compensated for. If we refuse to renew a franchise for the purpose of converting your business to one owned and operated by us, we, in addition, must compensate you for the loss of goodwill. We may deduct reasonable costs incurred in removing, transporting and disposing of your inventory, supplies, equipment and furnishings pursuant to these requirements, and may offset any moneys due to us.

4. This Amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Hawaii Franchise Investment Law, Hawaii Rev. Stat. §§ 482E, *et seq.*, are met independently without reference to this Amendment.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Hawaii amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

**NATHAN'S FAMOUS SYSTEMS, INC.**

**Franchisee:**

**Franchisor:**

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

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

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

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

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

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

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

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

**EXHIBIT Q-2**

**Hawaii Area Development Agreement Amendment**

In recognition of the requirements of Hawaii Franchise Investment Law, Hawaii Rev. Stat. §§ 482E, *et seq.*, the parties to the attached Nathan’s Famous Systems, Inc. Area Development Agreement (the “Agreement”) agree as follows:

1. Section 6, under the heading “Default,” shall be amended by the addition of the following new paragraph 6.7, which shall be considered an integral part of the Agreement:

6.7 Notwithstanding anything to the contrary in this Section 6, Franchisor shall comply with Hawaii law which currently requires that Franchisor compensate Area Developer upon termination or refusal to renew the development agreement for the fair market value, at the time of the termination or expiration of the development agreement, of any inventory, supplies, equipment and furnishings which were purchased from Franchisor or a supplier designated by Franchisor. Personalized materials which have no value to Franchisor need not be compensated for. If Franchisor refuses to renew the Area Development Agreement for the purpose of converting Franchisee’s business to one owned and operated by Franchisor, Franchisor, in addition, must compensate the Area Developer for the loss of goodwill. Franchisor may deduct reasonable costs incurred in removing, transporting and disposing of the Area Developer’s inventory, supplies, equipment and furnishings pursuant to these requirements, and may offset any moneys due Franchisor.

2. Section 7.2.2.3, under the heading “Transfers,” is deleted in its entirety, and shall have no force or effect; and the following paragraph shall be substituted in lieu thereof:

7.2.2.3 The transferor shall have executed a general release under seal, in a form satisfactory to Franchisor, of any and all claims against Franchisor and/or Franchisor’s officers, directors, shareholders, and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state, and local laws, rules, and ordinances; excluding only such claims as the Area Developer may have under the Hawaii Franchise Investment Law.

3. This Amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Hawaii Franchise Investment Law, Hawaii Rev. Stat. §§ 482E, *et seq.*, are met independently without reference to this Amendment.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Hawaii amendment to the Area Development Agreement on the same date as the Area Development Agreement was executed.

**NATHAN’S FAMOUS SYSTEMS, INC.**

**Franchisor:**

**Area Developer:**

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

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

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

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

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

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

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

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

## EXHIBIT Q-3

### Illinois Franchise Agreement Amendment

In recognition of the requirements of the Illinois Franchise Disclosure Act, III. Comp. Stat. §§ 705/1 to 705/44, the parties to the attached Nathan's Famous Systems, Inc. Franchise Agreement (the "Agreement") agree as follows:

1. Section 2 of the Agreement, under the heading "Term and Renewal," shall be supplemented by the addition of the following new paragraph 2.3, which shall be considered an integral part of the Agreement:

2.3 If any of the provisions of this Section 2 are inconsistent with Section 20 of the Illinois Franchise Disclosure Act, the provisions of the Act shall apply. If Franchisor refuses to renew this Agreement, Franchisor shall compensate Franchisee if (and to the extent) such compensation is required under Section 20 of the Illinois Franchise Disclosure Act.

2. Section 17 of the Agreement, under the heading "Default and Termination," shall be supplemented by the addition of the following new paragraph 17.8 which shall be considered an integral part of the Agreement:

17.8 If any of the provisions of this Section 17 concerning termination are inconsistent with Section 19 of the Illinois Franchise Disclosure Act, then said Illinois law shall apply.

3. Section 25 of the Agreement, under the heading "Entire Agreement and Amendment," shall be supplemented by the addition of the following language at the conclusion of the Section:

Nothing in this Section 25 or this Agreement shall act as a waiver of any of Franchisee's rights under the Illinois Franchise Disclosure Act or other Illinois law.

4. Sections 27.1 and 27.2 of the Agreement, under the heading "Applicable Law and Dispute Resolution," shall be deleted in their entirety, and shall have no force or effect; and the following new paragraphs shall be substituted in its place:

27.1 This Agreement takes effect upon its acceptance and execution by Franchisor, and shall be interpreted and construed under the laws of Illinois.

27.2 The parties agree that any action brought by either party against the other in any court, whether federal or state, shall be brought within the state of New York in the judicial district in which Franchisor has its principal place of business, except with respect to claims arising under the Illinois Franchise Disclosure Act.

5. Section 27 of the Agreement, under the heading "Applicable Law and Dispute Resolution," shall be amended by the addition of the following new Section 27.10, which shall be considered an integral part of the Agreement:

27.10 Nothing contained in this Section shall constitute a condition, stipulation, or provision purporting to bind any person to waive compliance with any provision of the Illinois Franchise Disclosure Act or any other Illinois law (as long as the jurisdictional requirements of the Illinois Franchise Disclosure Act are met).

6. Each provision of this amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Illinois Franchise Disclosure Act are met independently without reference to this amendment.

7. 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, and delivered this Illinois amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

**NATHAN’S FAMOUS SYSTEMS, INC.**  
**Franchisor:**

**Franchisee:**

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

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

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

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

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

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

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

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

## EXHIBIT Q-4

### Illinois Area Development Agreement Amendment

In recognition of the requirements of the Illinois Franchise Disclosure Act, III. Comp. Stat. §§ 705/1 to 705/44, the parties to the attached Nathan's Famous Systems, Inc. Area Development Agreement (the "Agreement") agree as follows:

1. Section 6 of the Agreement, under the heading "Default," shall be amended by the addition of the following new paragraph 6.7, which shall be considered an integral part of the Agreement:

6.7 If any of the provisions of this Section 6 concerning termination are inconsistent with Section 19 of the Illinois Franchise Disclosure Act, then said Illinois law shall apply.

2. Section 13 of the Agreement, under the heading "Entire Agreement and Amendment," shall be amended by the addition of the following language at the conclusion of the Section:

Nothing in this Section 13 or this Agreement shall act as a waiver of any of Franchisee's rights under the Illinois Franchise Disclosure Act or other Illinois law.

3. Sections 15.1 and 15.2 of the Agreement, under the heading "Applicable Law," shall be deleted in their entirety, and shall have no force or effect; and the following new paragraphs shall be substituted in its place:

15.1 This Agreement takes effect upon its acceptance and execution by Franchisor, and shall be interpreted and construed under the laws of Illinois.

15.2 The parties agree that any action brought by either party against the other in any court, whether federal or state, shall be brought within the state of New York in the judicial district in which Franchisor has its principal place of business, except with respect to claims arising under the Illinois Franchise Disclosure Act.

4. Section 15 of the Agreement, under the heading "Applicable Law," shall be amended by the addition of the following new Section 15.7, which shall be considered an integral part of the Agreement:

15.7 Nothing contained in this Section shall constitute a condition, stipulation, or provision purporting to bind any person to waive compliance with any provision of the Illinois Franchise Disclosure Act or any other Illinois law (as long as the jurisdictional requirements of the Illinois Franchise Disclosure Act are met).

5. Each provision of this amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Illinois Franchise Disclosure Act are met independently without reference to this amendment.

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.

IN WITNESS WHEREOF, the parties hereto have duly executed, and delivered this Illinois amendment to the Area Development Agreement on the same date as the Area Development Agreement was executed.

**NATHAN'S FAMOUS SYSTEMS, INC.**

**Franchisor:**

**Area Developer:**

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

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

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

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

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

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

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

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

## EXHIBIT Q-5

### Maryland Franchise Agreement Amendment

In recognition of the requirements of the Maryland Franchise Registration and Disclosure Law, MD. Code Ann. Bus. Reg. §§ 14-201 et seq., the parties to the attached Nathan's Famous Systems, Inc. Franchise Agreement (the "Agreement") agree as follows:

1. Section 17 of the Agreement provides that the license may automatically terminate upon Operator's bankruptcy. This provision may not be enforceable under Federal bankruptcy law (11 U.S.C. Section 101 et. seq.), but the parties agree to enforce this provision to the maximum extent the law allows.

2. The following language is added to the end of Section 27.1 of the Agreement:

However, Maryland law will apply to claims arising under the Maryland Franchise Registration and Disclosure Law.

3. The following language is added to the end of Section 27.2 of the Agreement:

However, you may bring an action in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

4. The following language is added to the end of Section 27.7 of the Agreement:

However, the limitation of such claims shall not act to reduce the three (3) year statute of limitations afforded to you for bringing a claim under the Maryland Franchise Registration and Disclosure Law.

5. The following language is added as a new Section 28.15 of the Agreement:

All representations requiring you to assent to a release, estoppel or waiver of liability 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.

6. Each provision of this amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently without reference to this amendment.

7. 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.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have duly executed, and delivered this Maryland Franchise Agreement amendment on the same date as the Franchise Agreement was executed.

**Nathan's Famous Systems, Inc.**

\_\_\_\_\_  
**Franchisee**

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

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

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

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

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

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

Date: \_\_\_\_\_, 202\_

Date: \_\_\_\_\_, 202\_

## EXHIBIT Q-6

### Maryland Area Development Agreement Amendment

In recognition of the requirements of the Maryland Franchise Registration and Disclosure Law, MD. Code Ann. Bus. Reg. §§ 14-201 et seq., the parties to the attached Nathan's Famous Systems, Inc. Area Development Agreement (the "Agreement") agree as follows:

1. Section 6 of the Agreement provides that the Agreement may automatically terminate upon Operator's bankruptcy. This provision may not be enforceable under Federal bankruptcy law (11 U.S.C. Section 101 et. seq.), but the parties agree to enforce this provision to the maximum extent the law allows.

2. The following language is added to the end of Section 15.1 of the Agreement:

However, Maryland law will apply to claims arising under the Maryland Franchise Registration and Disclosure Law.

3. The following language is added to the end of Section 15.2 of the Agreement:

However, Area Developer may bring an action in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

4. The following language is added to the end of Section 15.5 of the Agreement:

However, the limitation of such claims shall not act to reduce the three (3) year statute of limitations afforded to Area Developer for bringing a claim under the Maryland Franchise Registration and Disclosure Law.

5. The following language is added as a new Section 16.5 of the Agreement:

All representations requiring Area Developer to assent to a release, estoppel or waiver of liability 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.

6. Each provision of this amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently without reference to this amendment.

7. 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, and delivered this Maryland Area Development Agreement amendment on the same date as the Area Development Agreement was executed.

[Signature page follows]

**Nathan's Famous Systems, Inc.**

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

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

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

Date: \_\_\_\_\_, 202\_

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**Area Developer**

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

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

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

Date: \_\_\_\_\_, 202\_

**EXHIBIT Q-7**  
**Minnesota Franchise Agreement Amendment**

In recognition of the requirements of the Minnesota Franchises Law, Minn. Stat. §§ 80C.01 through 80C.22, and of the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce, Minn. Rules §§ 2860.0100 through 2860.9930, the parties to the attached Nathan's Famous Systems, Inc. Franchise Agreement (the "Agreement") agree as follows:

1. Section 2.2.7 of the Agreement, under the heading "Term and Renewal," shall be deleted in its entirety and shall have no force or effect, and the following paragraph shall be inserted in lieu thereof:

2.2.7 You agree to sign and deliver to us a release, in a form that we will provide (which will be a mutual release with limited exclusions), which will release all claims against us and our affiliates, and our respective officers, directors, agents, and employees. If you are an entity, then your affiliates and your direct and indirect owners (and any other parties that we reasonably request) must also sign and deliver that release to us; excluding only such claims as Franchisee may have that have arisen under the Minnesota Franchises Law and the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce; and

2. Section 2 of the Agreement, under the heading "Term and Renewal," shall be supplemented by the addition of the following new paragraph 2.3:

2.3 Minnesota law provides franchisees with certain non-renewal rights. In sum, Minn. Stat. § 80C.14 (subd. 4) currently requires, except in certain specified cases, that a franchisee be given 180 days notice of non-renewal of the Franchise Agreement.

3. Section 9 of the Agreement, under the heading "Proprietary Marks," shall be amended by the addition of the following new paragraph 9.5:

9.5 Pursuant to Minnesota Stat. Sec. 80C.12, Subd. 1(g), Nathan's Famous Systems, Inc. is required to protect any rights Franchisee may have to Nathan's Famous Systems, Inc. Proprietary Marks.

4. Section 16.5.1 of the Agreement, under the heading "Transfer of Interest," shall be deleted in its entirety and shall have no force or effect, and the following paragraph shall be inserted in lieu thereof:

16.5.1 The transferor must have executed a general release, in a form satisfactory to us, of any and all claims against us and our affiliates, successors, and assigns, and their respective directors, officers, shareholders, partners, agents, representatives, servants, and employees in their corporate and individual capacities including, without limitation, claims arising under this Agreement, any other agreement between you and us, and/or our respective affiliates, and federal, state, and local laws and rules; excluding only such claims as the transferor may have under the Minnesota Franchises Law and the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce.

5. Section 16 of the Agreement, under the heading "Transfer of Interest," shall be supplemented by the addition of the following new paragraph 16.12:

16.12 Minnesota law provides franchisees with certain transfer rights. In sum, Minn. Stat. § 80C.14 (subd. 5) currently requires that consent to the transfer of the franchise may not be unreasonably withheld.

6. Section 17 of the Agreement, under the heading “Default and Termination,” shall be supplemented by the following new paragraph 17.8:

17.8 Minnesota law provides franchisees with certain termination rights. In sum, Minn. Stat. § 80C.14 (subd. 3) currently requires, except in certain specified cases, that a franchisee be given 90 days notice of termination (with 60 days to cure) of the Franchise Agreement.

7. Section 27.5 of the Agreement, under the heading “Applicable Law and Dispute Resolution,” shall be deleted in its entirety and shall have no force or effect; and the following paragraph shall be substituted in lieu thereof:

27.5 Nothing contained in this Agreement shall bar our right to seek injunctive relief against threatened conduct that will cause us loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

8. Section 27 of the Agreement, under the heading “Applicable Law and Dispute Resolution”, shall be amended by the following additional paragraph 27.10, which shall be considered an integral part of the Agreement:

27.10 Minn. Stat. § 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document or agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to jury trial, any procedure, forum, or remedies as may be provided for by the laws of the jurisdiction.

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. Each provision of this Agreement shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Minnesota Franchises Law or the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce are met independently without reference to this addendum to the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed, and delivered this Minnesota amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

**Nathan’s Famous Systems, Inc.**

\_\_\_\_\_  
**Franchisee:**

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

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

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

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

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

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

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

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

## EXHIBIT Q-8

### Minnesota Area Development Agreement Amendment

In recognition of the requirements of the Minnesota Franchises Law, Minn. Stat. §§ 80C.01 through 80C.22, and of the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce, Minn. Rules §§ 2860.0100 through 2860.9930, the parties to the attached Nathan's Famous Systems, Inc. Area Development Agreement (the "Agreement") agree as follows:

1. Section 7.2.2.3 of the Agreement, under the heading "Transfers," shall be deleted in its entirety and shall have no force or effect, and the following paragraph shall be inserted in lieu thereof:

7.2.2.3 The transferor shall have executed a general release under seal, in a form satisfactory to Franchisor, of any and all claims against Franchisor and/or Franchisor's officers, directors, shareholders, and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state, and local laws, rules, and ordinances; excluding only such claims as the transferor may have under the Minnesota Franchises Law and the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce.

2. Section 7 of the Agreement, under the heading "Transfers," shall be amended by the addition of the following new paragraph 7.7:

7.7 Minnesota law provides Area Developers with certain transfer rights. In sum, Minn. Stat. § 80C.14 (subd. 5) currently requires that consent to the transfer of the Area Development Agreement may not be unreasonably withheld.

3. Section 6 of the Agreement, under the heading "Default and Termination," shall be amended by the addition of the following new paragraph 6.7:

6.7 Minnesota law provides Area Developers with certain termination rights. In sum, Minn. Stat. § 80C.14 (subd. 3) currently requires, except in certain specified cases, that a Area Developers be given 90 days notice of termination (with 60 days to cure) of the Area Development Agreement.

4. Section 15.4 of the Agreement, under the heading "Applicable Law," shall be deleted in its entirety and shall have no force or effect; and the following paragraph shall be substituted in lieu thereof:

15.4 Nothing herein contained shall bar Franchisor's right to seek injunctive relief against threatened conduct that will cause it loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

5. Section 15 of the Agreement, under the heading "Applicable Law", shall be amended by the following paragraph 15.7, which shall be considered an integral part of the Agreement:

15.7 Minn. Stat. § 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document or agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to jury trial, any procedure, forum, or remedies as may be provided for by the laws of the jurisdiction.

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. Each provision of this Agreement shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Minnesota Franchises Law or the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce are met independently without reference to this addendum to the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed, and delivered this Minnesota amendment to the Area Development Agreement on the same date as the Area Development Agreement was executed.

**NATHAN’S FAMOUS SYSTEMS, INC.**

**Franchisor:**

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

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

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

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

**Area Developer:**

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

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

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

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

**EXHIBIT Q-9**

**Rhode Island Franchise Agreement Amendment**

In recognition of the requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34, the parties to the attached Nathan’s Famous Systems, Inc. Franchise Agreement (the “Agreement”) agree as follows:

1. Section 27 of the Agreement, under the heading “Applicable Law and Dispute Resolution,” shall be amended by the addition of the following:

27.10 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.”

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.

3. This amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34, are met independently without reference to this amendment.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Rhode Island amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

**NATHAN’S FAMOUS SYSTEMS, INC.**  
**Franchisor:**

**Franchisee:**

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

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

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

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

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

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

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

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

## EXHIBIT Q-10

### Rhode Island Area Development Agreement Amendment

In recognition of the requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34, the parties to the attached Nathan's Famous Systems, Inc. Area Development Agreement (the "Agreement") agree as follows:

1. Section 15 of the Agreement, under the heading "Applicable Law," shall be amended by the addition of the following:

15.7 § 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."

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.

3. This amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34, are met independently without reference to this amendment.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Rhode Island amendment to the Area Development Agreement on the same date as the Area Development Agreement was executed.

**NATHAN'S FAMOUS SYSTEMS, INC.**

**Franchisor:**

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

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

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

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

**Area Developer:**

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

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

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

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

## EXHIBIT Q-11

### Washington Franchise Agreement Amendment

In recognition of the requirements of the Washington Franchise Investment Protection Act, Wash. Rev. Code §§ 19.100.010 through 19.100.940, the parties to the attached Nathan's Famous Systems, Inc. Franchise Agreement agree as follows:

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 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, you 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 an operator may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder 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 an operator from (i) soliciting or hiring any employee of an operator 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.

Each provision of this amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Washington Franchise Investment Protection

Act, Wash. Rev. Code §§ 19.100.010 through 19.100.940, are met independently without reference to this amendment.

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 and delivered this Washington amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

**NATHAN’S FAMOUS SYSTEMS, INC.**  
**Franchisor:**

**Franchisee:**

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

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

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

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

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

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

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

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

## EXHIBIT Q-12

### Washington Area Development Agreement Amendment

In recognition of the requirements of the Washington Franchise Investment Protection Act, Wash. Rev. Code §§ 19.100.010 through 19.100.940, the parties to the attached Nathan's Famous Systems, Inc. Area Development Agreement agree as follows:

The State of Washington has a statute, RCW 19.100.180, which may supersede the Area Development 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 Area Development Agreement in your relationship with the franchisor including the areas of termination and renewal of your Area Development Agreement.

In any arbitration or mediation involving an Area Development Agreement 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 Area Development Agreement, you may bring an action or proceeding arising out of or in connection with the sale of the Area Development Agreement, 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 an area developer may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder 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 an area developer, 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 an area developer 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 Area Development 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 an area developer from (i) soliciting or hiring any employee of an area developer of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the Area Developer Agreement or elsewhere are void and unenforceable in Washington.

Each provision of this amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Washington Franchise Investment Protection Act, Wash. Rev. Code §§ 19.100.010 through 19.100.940, are met independently without reference to this amendment.

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 and delivered this Washington amendment to the Area Development Agreement on the same date as the Area Development Agreement was executed.

**NATHAN'S FAMOUS SYSTEMS, INC.**

**Franchisor:**

**Area Developer:**

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

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

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

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

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

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

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

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>
California	Pending
Hawaii	Not Effective
Illinois	July 21, 2023
Indiana	July 21, 2023
Maryland	Pending
Michigan	July 21, 2023
Minnesota	Pending
New York	July 21, 2023
North Dakota	Pending
Rhode Island	Not Effective
South Dakota	July 21, 2023
Virginia	Pending
Washington	Pending
Wisconsin	July 21, 2023

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 R**

**Acknowledgment of Receipt**

**ITEM 23**  
**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 Nathan's Famous Systems, Inc. (NFSI) offers you a franchise, it must provide this Disclosure Document to you: (a) 14 calendar days before you sign a binding agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale, or (b) under New York law, if applicable, at the earlier of (i) your first personal meeting to discuss the franchise, or (ii) 10 business days before you sign a binding agreement with, or make payment to us or an affiliate in connection with the proposed franchise sale, or (c) under Iowa requirements at the earlier of the first personal meeting, or 14 days before signing the franchise or other agreement or the payment of any consideration that relates to the franchise relationship, or (d) Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If NFSI does not deliver this Disclosure Document on time or if it contains a false or misleading statement or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and to the appropriate state agency listed in Exhibit K.

NFSI is the franchisor, located at One Jericho Plaza - Wing A, 2nd Floor, Jericho, New York 11753. NFSI's telephone number is 1-800-NATHANS. The franchise sellers are Eric Gatoff, Oliver Powers and James Walker at Nathan's Famous Systems, Inc., One Jericho Plaza - Wing A, 2nd Floor, Jericho, New York 11753 (tel.: 1-800-NATHANS). Any additional individual franchise sellers involved in offering the franchise are: \_\_\_\_\_.

The issuance date of this Franchise Disclosure Document is July 21, 2023.

Nathan's Famous Systems, Inc. authorizes the respective state agencies identified on Exhibit L to receive service of process for it in the particular state.

I received a Franchise Disclosure Document dated July 21, 2023 that included the following Exhibits:

- |  |   |
|--|---|
| A. Franchise Agreement   | I. List of Company-owned Restaurants  |
| B. Kiosk and Mobile Unit Amendments to the Franchise Agreement | J. List of Terminated Franchisees   |
| B-1 Kiosk Amendment  | K. List of State Administrators   |
| B-2 Mobile Unit Amendment                                      | L. Agents for Service of Process  |
| C. Area Development Agreement                                  | M. Operating Manual (Table of Contents)   |
| D. [Reserved]  | N. Audited Financial Statements of Nathan's Famous Systems, Inc. (for Fiscal Years 2023, 2022 and 2021) |
| E. "Miami Subs" Participation Agreements                       | O. Franchisee Compliance Certification  |
| E-1 Existing Restaurant  | P. State-Specific Amendments to the Disclosure Document   |
| E-2 New Restaurant   | Q. State-Specific Amendments to the Various Agreements  |
| F. "Arthur Treacher's" Participation Agreements                | R. Acknowledgment of Receipt  |
| F-1 Existing Franchisees                                       |   |
| F-2 New Franchisees  |   |
| G. Deposit Agreement   |   |
| H. List of Franchisees/Licensees                               |   |

\_\_\_\_\_  
Date

\_\_\_\_\_  
Prospective Franchisee's Signature

\_\_\_\_\_  
Printed Name

**ITEM 23**  
**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 Nathan's Famous Systems, Inc. (NFSI) offers you a franchise, it must provide this Disclosure Document to you: (a) 14 calendar days before you sign a binding agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale, or (b) under New York law, if applicable, at the earlier of (i) your first personal meeting to discuss the franchise, or (ii) 10 business days before you sign a binding agreement with, or make payment to us or an affiliate in connection with the proposed franchise sale, or (c) under Iowa requirements at the earlier of the first personal meeting, or 14 days before signing the franchise or other agreement or the payment of any consideration that relates to the franchise relationship, or (d) Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If NFSI does not deliver this Disclosure Document on time or if it contains a false or misleading statement or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and to the appropriate state agency listed in Exhibit K.

NFSI is the franchisor, located at One Jericho Plaza - Wing A, 2nd Floor, Jericho, New York 11753. NFSI's telephone number is 1-800-NATHANS. The franchise sellers are Eric Gatoff, Oliver Powers and James Walker at Nathan's Famous Systems, Inc., One Jericho Plaza - Wing A, 2nd Floor, Jericho, New York 11753 (tel.: 1-800-NATHANS). Any additional individual franchise sellers involved in offering the franchise are: \_\_\_\_\_.

The issuance date of this Franchise Disclosure Document is July 21, 2023.

Nathan's Famous Systems, Inc. authorizes the respective state agencies identified on Exhibit L to receive service of process for it in the particular state.

I received a Franchise Disclosure Document dated July 21, 2023 that included the following Exhibits:

- |  |   |
|--|---|
| A. Franchise Agreement   | I. List of Company-owned Restaurants  |
| B. Kiosk and Mobile Unit Amendments to the Franchise Agreement | J. List of Terminated Franchisees   |
| B-1 Kiosk Amendment  | K. List of State Administrators   |
| B-2 Mobile Unit Amendment                                      | L. Agents for Service of Process  |
| C. Area Development Agreement                                  | M. Operating Manual (Table of Contents)   |
| D. [Reserved]  | N. Audited Financial Statements of Nathan's Famous Systems, Inc. (for Fiscal Years 2023, 2022 and 2021) |
| E. "Miami Subs" Participation Agreements                       | O. Franchisee Compliance Certification  |
| E-1 Existing Restaurant  | P. State-Specific Amendments to the Disclosure Document   |
| E-2 New Restaurant   | Q. State-Specific Amendments to the Various Agreements  |
| F. "Arthur Treacher's" Participation Agreements                | R. Acknowledgment of Receipt  |
| F-1 Existing Franchisees                                       |   |
| F-2 New Franchisees  |   |
| G. Deposit Agreement   |   |
| H. List of Franchisees/Licensees                               |   |

\_\_\_\_\_  
Date

\_\_\_\_\_  
Prospective Franchisee's Signature

\_\_\_\_\_  
Printed Name

*Please sign, date, and return this copy to NFSI.*