

## FRANCHISE DISCLOSURE DOCUMENT

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HTHM Franchising, LLC  
(a Delaware limited liability  
company)  
289 Elm Street, Suite 102  
Marlborough, Massachusetts 01752  
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(508) 658-3600

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HTHM Franchising, LLC offers franchises for delivery of frozen, prepared meals for in-home consumption operating under the name Heart to Home Meals. The total investment necessary to begin operation of a Heart to Home Meals delivery service franchise (a “Program Meals Business”) ranges from \$129,100 to \$319,300. This includes \$40,000 that must be paid as an Initial Franchise Fee to us for your initial franchise fee and \$11,000 that must be paid to us or our affiliate for opening inventory.

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, us 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 Christopher Webb at 289 Elm Street, Suite 102, Marlborough, Massachusetts 01752, via email at [chris.webb@hearttohomemeals.com](mailto:chris.webb@hearttohomemeals.com) or by phone at 617 990-6783.

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 Disclosure Document is February 4, 2024.

## How to Use This Franchise Disclosure Document

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

QUESTION	WHERE TO FIND INFORMATION
<b>How much can I earn?</b>	Item 19 may give you information about Program Meals Business 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 F.
<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 C 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 Program Meals Businesses.
<b>Will my business be the only Heart to Home Meals 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 Heart to Home Meals franchisee?</b>	Item 20 or Exhibit F lists current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	Those 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 an exclusive 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 D.

Your state may also 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, arbitration and/or litigation only in the district where our home office is located, which is currently Middlesex County, Massachusetts. Out-of-state mediation, arbitration or litigation may force you to accept a less favorable settlement for disputes. It may also cost you more to mediate. Arbitrate or litigate with us in Middlesex County, Massachusetts than in your own state.

Certain states may require other risks to be highlighted. Check the “State Specific Addenda” to see whether your state requires other risks to be highlighted.

**FOR THE STATE OF MICHIGAN**  
**THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE**  
**SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS**  
**ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT**  
**BE ENFORCED AGAINST YOU:**

- (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 franchisee of rights and protection provided in this Act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (C) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (D) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if (i) the term of the franchise is less than 5 years and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising of other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of franchisor's intent not to renew the franchise.
- (E) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (F) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (G) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:
  - (i) The failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards.
  - (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.
  - (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

(iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

- (H) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants 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 service.

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.

ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO THE OFFICE OF THE ATTORNEY GENERAL, CONSUMER PROTECTION DIVISION, ATTN: FRANCHISE DEPARTMENT, 670 LAW BLDG., LANSING, MICHIGAN 48913, (517) 373-7117.

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**Exhibits**

- A. Franchise Agreement including forms of Automated Clearing House Payment Authorization; Guaranty and Restriction Agreement; Management Confidentiality and Non-Competition Agreement; Lease Rider; Guaranty; Franchise Agreement Addenda Required by Certain States; and Receipt of Operations Manual and Confidentiality Agreement
- B. State Addenda
- C. Financial Statements
- D. State Administrators and Agents for Service of Process
- E. Table of Contents of Operations Manual
- F. Names and Addresses of Franchisees
- G. Closing Acknowledgement
- H. Form of General Release

## ITEM 1

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

To simplify the language in this Disclosure Document, we will use the words “we,” “us” and “our” when referring to HTHM Franchising, LLC and the words “you” and “your” when referring to the individual or business entity which buys a Franchised Business franchise. The words “you” and “your” do not include any individual or business entity which owns an interest in you. We will require all individuals and business entities that own an interest in you to guarantee your obligations to us. We refer to each distinct business operated under our Franchise Agreement as a “Program Meals Business” or “Franchised Business” and each distinct Franchised Business operated by an Affiliate of the Franchisor as a “Company Program Meals Business”. We refer to the frozen, prepared meals branded as Heart to Home Meals delivered by a Program Meals Business as “Products.”

#### **Franchisor, and any Parents, Predecessors, and Affiliates**

We are a Delaware limited liability company formed on August 23, 2018. Our principal business address is 289 Elm Street, Suite 102, Marlborough, Massachusetts 01752. Our direct parent corporation is US Food Holdings, LLC, a Delaware limited liability company (“Parent”). The principal business address for Parent is 289 Elm Street, Suite 102, Marlborough, Massachusetts 01752. We have no predecessors.

We are wholly owned indirect subsidiary of Ultimate Food Holdings, Inc., a Delaware corporation (“UFH”) incorporated on August 23, 2018. UFH is the sole member of Food International Holdings LLC (“FIH”) and Parent, both Delaware limited liability companies formed on August 23, 2018. Parent is the sole member of Franchisor and HTHM Operations LLC, a Delaware limited liability company (“HTHMO”) formed on August 23, 2018. The principal business address of these entities is 289 Elm Street, Suite 102, Marlborough, Massachusetts 01752.

UFH is a wholly owned subsidiary of apetito group of companies which is based in Germany (“apetito AG”) which manufactures and sells frozen prepared meals to long-term care facilities, retirement homes, “Meals on Wheels” home delivery services, schools and nurseries. apetito AG, has subsidiary companies in Germany, United Kingdom, Republic of Ireland, the Netherlands, Austria, France, Spain, Denmark, the United States and Canada. apetito AG was founded on April 1, 1958, in Rheine, Westphalia, Germany, when it began selling frozen prepared meals. Its principal address is Bonifatiusstraße 305, D-48432 Rheine, Germany.

Heart to Home Meals, Inc., an Ontario corporation (“HTHM Canada”) formed on June 25, 2008. Its principal business address is 1010 Dairy Drive, Ottawa, ON K4A 3N3. It has been engaged in franchising the Program Meals Business in Canada since 2008 and has offered franchises for Heart to Home Meals businesses (formerly called Copper County Foods) since June 2009. HTHM Canada had 20 franchises operating on December 31, 2022.

apetito HFS Limited, an Ontario corporation (“apetito HFS”), has its principal business address at 1010 Dairy Drive, Ottawa, ON K4A 3N3, provides frozen, prepared meals to Meals on Wheels programs as well as to hospitals and long-term care facilities serving customers throughout Canada. It is also the designated supplier of Products to Heart to Home Meals franchisees in Canada. apetito HFS is the designated supplier of Products to Heart to Home Meals franchisees in Canada and the Ottawa address is the principal business address of the Franchisor.

HTHM Supply LLC, a Delaware limited liability company, (“HTHM Supply”) has its principal business address at is 289 Elm Street, Suite 102, Marlborough, Massachusetts 01752. It is the designated



supplier of Products to Heart to Home Meals franchisees in the United States. It has supplied Products since 2018.

Wiltshire Farm Foods, a direct-to-consumer brand operated by a subsidiary of apetito AG in the United Kingdom, offers operates company-owned and franchised businesses in the UK similar to the Franchised Business. It began selling franchises in November 1995. Its registered business address is Canal Road, Trowbridge, Wiltshire BA14 8RJ. Wiltshire Farm Foods had more than 70 outlets in the United Kingdom and 2 outlets in Ireland on December 31, 2022. Franchised outlets comprise 25% of this network and the remaining 75% of the United Kingdom outlets are corporately owned.

We presently do business under the name HTHM Franchising, LLC. You will operate your franchised Program Meals Business under the name Heart to Home Meals (the “Brand”). The name and address of our agent for service of process in Massachusetts appears on Exhibit D to this Disclosure Document.

We do not operate a business of the type being franchised. We engage in no other business activities. Except as described above, no parent, predecessors or affiliates have offered franchises in this or any other line of business.

### **The Business and Franchises Offered**

We offer a franchise to establish and operate a Heart to Home Meals business (a “Program Meals Business”) that delivers Products, consisting of frozen, prepared meals for in-home consumption (the “Franchised Business”) at a single, defined location (the “Franchised Location”) within a specific territory using our trademarks, service marks, trade names, logos and commercial symbols (the “Marks”), certain printed or on-line materials (the “Materials”), the content in our “Operations Manual,” proprietary products and methods of operation (the “System”) and our standards for the performance of services, products and operations of the Franchised Business (“System Standards”), all of which we may change, update, delete, improve and further develop over time and publish in the Operations Manual, under a Franchise Agreement you sign with us. You may operate the Franchised Business from either leased commercial space, which is usually light industrial warehouse space, or a home office, provided that you must install a commercial walk-in freezer at your location (the “Franchised Location”). You must be able to receive Product deliveries from a tractor trailer at the Franchised Location and park your freezer delivery vehicle conveniently. Your delivery vehicle represents your Franchised Business and our Brand, so it must be properly maintained and cleaned regularly to present an appropriate image to the public as specified in the Operations Manual, which consists of all books, pamphlets, memoranda, other publications and other written communications prepared by or on behalf of Franchisor for use by franchisees generally or for any Franchisee in particular, setting forth information, advice, recommendations, System Standards, or policies relating to the use of the System, the Marks, and the operation of a Heart to Home Meals Franchised Business, as such may be amended from time to time;

If you have more than one equity owner, you must designate one of your equity owners as your “Owner-Operator” in the Franchise Agreement to undertake certain responsibilities on your behalf.

Each Franchised Business is assigned a primary territory usually defined by zip codes (the “Territory”) and operates the Program Meals Business from the Location approved by us where administrative functions can be performed and the trucks, equipment, supplies and inventory of the Program Meals Business can be securely stored and maintained so that the products and services of the Franchised Business can be supplied to your customers in the Territory. You are not permitted to have a customer accessible facility at the Location or elsewhere. The Territory is defined by population density of persons aged 75 and older, and other persons whose mobility constraints, physical disabilities or time

commitments may prevent or inhibit them from meal preparation and shopping for ingredients who are living in their own homes. We also consider factors affecting the ability to deliver Products to customers efficiently in freezer-equipped delivery trucks. All your marketing must target the Territory.

## **Market and Competition**

The market for Products home delivered by a service includes providers of prepared frozen meals delivered to a customer who cannot or prefers not to shop for or prepare at-home meals. You will face competition from other home meal delivery services offering planned delivery programs and ad hoc delivery services of restaurant meals. In most markets, demand is generally consistent throughout the year and not influenced by seasons. However, in cold weather markets, demand has the potential to rise during winter as travel is more difficult.

## **Regulation**

Your Franchised Business must comply with the food safety standards and regulations of the United States Department of Agriculture and the Food and Drug Administration for the transportation of frozen food, particularly the FDA Food Safety Modernization Act rule on Sanitary Transportation of Human and Animal Food, 21 CFR Part 1, Subpart O. These mainly apply to storage and transportation temperatures of frozen Products. Since a Franchised Business is the seller of the Products, regulations applicable to third party food delivery service should not apply but need to be reviewed by you and your counsel. Some localities may require compliance with local codes and licensing as a seller of prepared food products and may require inspections of your facilities for sanitation and proper storage temperatures in your freezers and delivery vehicles.

You will have to comply with all federal, state and local laws and regulations which apply generally to all businesses, and food sales and delivery that apply to Program Meals Business generally. Additionally, you will be required to comply with all federal, state and local laws and regulations that generally apply to private businesses. These include, but are not limited to, the Americans with Disabilities Act (the “ADA”); the Fair Labor Standards Act (the “FLSA”); the rules and regulations of the Equal Employment Opportunity Commission (the “EEOC”); the Occupation Safety and Health Administration (“OSHA”); Gramm-Leach-Bliley Act; the USA PATRIOT Act; Federal Truth in Lending and other laws dealing with credit transactions and collections; Digital Millennium Copyright Act; regulations governing MMS, SMS, emails and telemarketing; the payment of license fees; general location rules and regulations; and, any advertising or content related rules and regulations.

Your Franchised Business must accept credit cards and will be obligated to comply with the Payment Card Industry Data Security Standard. The Standard includes 12 requirements for any business that stores, processes or transmits payment cardholder data. For more information see <https://www.pcicomplianceguide.org/>.

We encourage you to make additional inquiries into those laws and regulations and obtain the assistance of your own legal counsel in that regard. It is your responsibility to independently determine if there are any legal requirements with which you must comply and business issues that might impact your Franchised Business and/or your possibility of generating a profit or loss. Neither we, nor our Affiliates, will be responsible for ascertaining your initial and continuing legal responsibilities. It is your responsibility, on an on-going basis, to investigate and satisfy all local, state, and federal laws and regulations since these can vary from place to place and can change over time.

## **Prior Business Experience**

We have no prior business experience and have not operated in any other lines of business.

### **ITEM 2**

#### **BUSINESS EXPERIENCE**

Parent is our sole member. The members of Parent's Board of Directors who are most involved in decisions affecting us are Paul Freeston, Richard Ring and Christopher Webb

#### **President: Christopher Webb**

Mr. Webb has been our President since August 2021. He was Director of Business Operations for Parent from February 2019 until his election as our President. Mr. Webb joined apetito UK in September 2014 and had overseen Franchise Recruitment, Franchise Support and Operations for Wiltshire Farm Foods from that date until January 2019.

#### **Chief Executive Officer and Director: Paul Freeston**

Mr. Freeston has held these offices since August 2018. He has been the Chairman and Chief Executive Officer of apetito UK since October 2001. He has been the Chairman and Chief Executive Officer of HTHM Canada since June 2008. He has served on the Board of Directors of apetito AG since 2007.

#### **Secretary-Treasurer, Chief Financial Officer and Director: Richard Ring**

Mr. Ring has held this position with us since August 2018. He joined apetito UK in July 2002 as Finance Director where he is also responsible for IT and Business Analytics. Richard also serves as Vice President, Finance at apetito HFS. He joined HTHM Canada as Secretary-Treasurer in June 2008.

### **ITEM 3**

#### **LITIGATION**

No litigation is required to be disclosed in this Item.

### **ITEM 4**

#### **BANKRUPTCY**

No bankruptcy is required to be disclosed in this Item.

### **ITEM 5**

#### **INITIAL FEES**

We charge a \$10,000 "Deposit" that you pay when you sign our Confidentiality and Deposit Agreement, after the expiration of applicable waiting periods required by law. The Deposit is applied toward payment of the Initial Franchise Fee payable under the Franchise Agreement. If a Franchise Agreement is not entered into within 30 days after execution of the Confidentiality and Deposit

Agreement and the expiration of all applicable waiting periods required by law, the Deposit, less the Franchisor's reasonable out-of-pocket expenses, is refundable to the Franchisee upon return to the Franchisor of all confidential materials provided to the Franchisee.

When you sign a Franchise Agreement for a Franchised Business, you must pay a non-refundable initial franchise fee of \$40,000. The amount of your Deposit will be credited to payment of the initial franchise fee when and if it becomes due. The initial franchise fee is not refundable.

**ITEM 6**

**OTHER FEES**

<b><u>Type of fee</u></b>	<b><u>Amount</u></b>	<b><u>Due Date</u></b>	<b><u>Remarks</u></b>
Wholesale Prices of Products	Depends on Volume	Net 10 days after Invoice	You must pay us or our affiliate for the wholesale prices of Products you purchase. There is no royalty on Gross Sales of the Products to customers.
Local Marketing	3.00% of Gross Sales (Note 1)	Annually	You must advertise and market your Franchised Business in your market area and document your spending to us. (Note 2)
Marketing Fee (Note 2)	Between 2.00% - 5.00% of Gross Sales	Weekly	Payable upon at least 30 days' prior written notice from us that we have established an Advertising Fund. Thereafter, payment must be made via electronic funds transfer weekly. (Note 2.)
Technology Fee	Not currently charged	Weekly with Marketing Fee	We provide certain technology support services to franchisees to assist in using our designated technology systems for operating the Franchised Business. We do not currently charge a fee for this service. We may elect to impose a fee to cover these support costs and related overhead in the future on at least 30 days prior written notice to all franchisees, and modify

<u>Type of fee</u>	<u>Amount</u>	<u>Due Date</u>	<u>Remarks</u>
			the fee once annually after its imposition
Manager Training Tuition	Currently \$2,000	Within 15 days of Invoice Date	Payable for any replacement manager you send to attend our initial training program; you pay the trainee's compensation, benefits, travel, lodging and meal expenses
Additional Training Fee (Note 3)	\$150 per hour plus trainer's expenses for additional initial training requested by you	As Incurred	We may provide additional employee training at your Franchised Business Location. We may change this rate at any time.
Renewal Fee (Note 6)	50.00% of the then-current Initial Franchise Fee at the time of renewal	When you send your renewal notice at the end of the initial term	Paid if you renew when you give notice of renewal to us
Transfer Fees (Note 4)	50.00% of the then-current Initial Franchise Fee	Upon transfer	Payable if you transfer the Franchise Agreement or Franchised Business or on ownership change involving control of 50% or more of your equity interests
Audit Results and Accounting Fees (Note 5)	Cost of audit and accounting fees	Within 15 days of receipt of audit report	Payable if you understate Gross Sales by 2% or more
Interest on Late Payments	Lesser of Prime Bank Rate plus 4.00% per month or highest rate allowed by law	Within 15 days of invoice date	Accrues from due date; Prime Bank Rate is published in <i>The Wall Street Journal</i> or another publication we deem reliable adjusted weekly
Security Interest Enforcement Costs	Cost of enforcing security interest	Within 15 days of invoice date	You grant us or our affiliate a security interest in your inventory, equipment and proceeds from the sale of inventory to secure payment of amounts owed for the wholesale price of Products you purchase.

<b>Type of fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
			If we foreclose on the collateral, you pay or reimburse us for the costs we incur including attorneys' fees and court costs to enforce our security interest, regain possession and store the collateral
Public Offering Fee	\$15,000	Upon request for approval of offering documents	Payable if you request our review of a placement memorandum or registration statement for any public or private offering your equity or debt securities
Indemnification Costs (Note 7)	As incurred	Within 15 days of invoice	Payable to us for damages, costs and expenses incurred by us from third party claims arising from your operation of the business; includes our cost of defense and resolution
Convention Fee	Estimated to be \$700 per attendee, excluding travel, lodging and meals	Within 15 days after invoice date	Payable in advance of our annual convention if we hold one. We may change this fee at any time in the Operations Manual. Fee charged for all mandated attendees
Bank Fees	Actual Bank Fees charged for insufficient funds or denied access for EFT/ACH transfer plus an administrative fee of \$25 per event	As incurred	Payable if a bank charges us fees for a returned check or denied electronic funds transfer payment to us
Late Fee for Tardy Financial Reporting	If the financial reports are not submitted by the due date, a \$150 fee.	When invoiced	Each Franchisee is to provide accurate financials in a timely manner after the close of each accounting cycle.

<b>Type of fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Restocking Fees & Charges	Greater of 20% of repurchase price or our costs to recover, transport and restock Products at termination or expiration of the Franchise Agreement	Within 15 days after invoice date; may be deducted from repurchase price	When the franchise agreement terminates or expires, we may purchase Products in your possession that are resaleable for the current wholesale price less the Restocking Fees and Charges

All fees are imposed by and are paid to us. All fees are non-refundable. Except as noted below in Note 1, all fees are uniformly imposed and collected. There are currently no franchisee cooperatives in existence, so there are no fees imposed by cooperatives and no voting power requirements for company-owned outlets.

### Notes

*Note 1. Gross Sales.* Gross Sales means the aggregate of all revenue from operating your Franchised Business, whether payment is received in cash or by credit card, gift cards or other generally accepted form of payment, from the sale of Products, appliances, services, merchandise or other goods and services. Without limiting the scope of the term, Gross Sales shall include without limitation: (a) revenue received from employees for Products or services furnished to employees at a discount; (b) the value of Products and services bought by customers by redeeming any Heart to Home Meals authorized gift cards; and (c) the proceeds from any business interruption insurance. Gross Sales are reduced by the amount of any discount given to customers, employees, family members or other businesses owned or controlled by you if taken at the point of sale system at the time of sale so that the purchaser pays an amount net of the discount. Gross Sales also excludes the following: (i) sales taxes and other taxes separately stated, if any, collected from customers and paid to taxing authorities; (ii) gratuities received from your Franchised Business customers and paid over to your Franchised Business employees; (iii) refunds and credits made in good faith to arms' length customers; (iv) the amount of any checks dishonored or returned; (v) proceeds from the sale of any Heart to Home Meals authorized gift cards to customers; (vi) proceeds from insurance with respect to your insured losses from property damage or liability; (vii) proceeds from any civil forfeiture, condemnation, or seizure by a government entity; and (viii) credits, allowances, adjustments or uncollectible amounts, subject to the limitation that uncollectible amounts cannot exceed 0.5% of Gross Sales for any fiscal year of you. Subsequent collections of charged off amounts must be included in Gross Sales when they are collected.

*Note 2. Marketing.* Each Franchisee is required to spend at least three percent (3%) of Gross Sales in each year during the Term on advertising and promotion which includes advertisements in local newspapers serving the Territory and conducting on-site presentations and demonstrations to target customer groups, hospitals and other health care facilities and senior care homes. Upon at least thirty (30) days' prior written notice from Franchisor that it has established a Fund for national, regional, local or other advertising programs for the System ("an Advertising Fund"), each Franchisee will be required to contribute to the Fund an amount determined by Franchisor of not less than two percent (2.00%) nor more than five percent (5.00%) of the Gross Sales, payable weekly in arrears based on the prior week's Gross Sales.

*Note 3. Additional Training Fee.* The Additional Training Fee covers training and operational support provided at your request beyond the training and opening assistance that we provide as part of your initial franchise fee as described in Item 11. We currently charge \$150 per hour plus the trainer's

travel and living expenses for additional training. We may charge reasonable tuition, currently set at \$2,000 per trainee, if additional training is provided, or for additional people you send to attend initial training. See Item 11. We also reserve the right to change this fee at any time or to charge a reasonable amount for any optional additional training we make available after you open the Franchised Business.

*Note 4. Transfer Fee.* You must pay a non-refundable fee of 50.00% of the then-current initial franchise fee if you transfer the Franchise Agreement or Franchised Business or in the event of an ownership change involving control of 50% or more of your equity interests. We will not charge a fee for any transfer of your equity interests among any of your existing owners, any member of your immediate family or an initial transfer from an individual to an entity. Transfers include sales, gifts, donations, and exchanges for value or without value. See Item 17.

*Note 5. Audit Fee.* We may audit your accounts, books and records at our expense. However, if we find an understatement of 2% or more of your Gross Sales for any month, you must reimburse us for our out-of-pocket expenses and allocable administrative costs and overhead incurred to perform and report on the audit.

*Note 6. Renewal Fee.* The Franchise Agreement has an initial term of 7 years and provides for up to one additional 7-year renewal terms, all subject to certain conditions. To renew your Franchise Agreement, you must pay us a non-refundable renewal fee equal to 50.00% of the then current initial franchise fee at the time of renewal. See Item 17.

*Note 7. Indemnification.* You must defend, indemnify and hold us and our affiliates harmless from and against any claims asserted against us or our affiliates resulting from the operation of your Franchised Business.

## ITEM 7

### ESTIMATED INITIAL INVESTMENT

<b>YOUR ESTIMATED INITIAL INVESTMENT - SINGLE FRANCHISE TERRITORY</b>					
<b>Type of expenditure</b>	<b>Low Range Amount</b>	<b>High Range 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)	\$40,000	\$40,000	Lump Sum	Upon Signing	Us
Permits and Licenses	\$500	\$1,000	Lump Sum	When Required	Government Agencies
Leasehold Improvements, Furniture, Fixtures, Equipment (Note 2)	\$2,000	\$10,000	As Agreed	As Incurred	Contractors
Freezer (Note 3)	\$30,000	\$130,000	As Agreed	As Incurred	Contractors
Freezer Equipped Delivery Vehicle with vehicle wrap sign (Note 4)	\$8,000	\$55,000	As Agreed	As Incurred	Supplier
Supplies	\$2,000	\$2,000	As Agreed	As Incurred	Suppliers



<b>YOUR ESTIMATED INITIAL INVESTMENT - SINGLE FRANCHISE TERRITORY</b>					
<b>Type of expenditure</b>	<b>Low Range Amount</b>	<b>High Range Amount</b>	<b>Method of payment</b>	<b>When due</b>	<b>To whom payment is to be made</b>
Computer Hardware for HTHM Proprietary Ordering and Inventory Management Software (Note 5)	\$1,500	\$2,000	As Agreed	As Incurred	Suppliers
Miscellaneous Opening Costs and Rent (Note 6)	\$2,000	\$5,000	As Agreed	As Incurred	Suppliers, Landlord
Opening Inventory (Note 7)	\$11,000	\$11,000	Lump Sum	Prior to Opening	Us or our Supplier Affiliate
Initial Training Travel and Living Expenses (Note 8)	\$2,000	\$2,000	Salary/Per Diem	As Agreed	Vendors
Trainee compensation cost during training (Note 8)	\$1,200	\$3,000	Weekly Payment	Payroll Due Date	Trainees
Deposits	\$1,000	\$1,500	Lump Sum	As Incurred	Suppliers
Professional fees for creating and organizing franchisee entity (Note 6)	\$2,000	\$5,000	As Agreed	As Incurred	Counsel, Accountants
Insurance	\$900	\$1,800	As Agreed	As Incurred	Suppliers
Additional Funds (3 months) (Note 9)	\$25,000	\$50,000	As Agreed	As Incurred	Suppliers; Employees
<b>TOTAL</b>	<b>\$129,100</b>	<b>\$319,300</b>			

We have relied on Parent's experience in opening company-owned locations, as well as the experience of franchisees and joint ventures in opening Program Meals Businesses, to compile the foregoing estimates. All payments to us and our affiliates are non-refundable. Any payments to third parties are subject to the refund policies of those third parties. We do not offer financing directly or indirectly for any part of the initial investment.

#### Notes

(1) *Initial Franchise Fee.* See Item 5 for a description of the initial franchise fee. We do not provide financing for the initial franchise fee. The Initial Franchise Fee includes the initial training program tuition and installation at the Franchisee's premises of the Franchisor's designated ordering and inventory management software, an initial supply of Heart to Home Meals uniforms and the conduct by the Franchisor of an initial marketing program for the launch of the Franchised Business.

(2) *Leasehold Improvements.* You may operate the Franchised Business at either a leased light industrial facility with an installed commercial grade walk-in freezer having at least 2520 cubic feet

of shelved freezer space and parking for a freezer equipped delivery vehicle or from a home office with space for installing the commercial walk-in freezer and convenient parking for the delivery vehicle. You will need to provide storage shelving and electrical power to operate the freezer, plus water, sewer and HVAC for the space, and telecommunications for telephone and Internet access. This amount includes fixtures, furnishings and exterior signage for your Franchised Business.

(3) *Commercial Freezer.* If your premises doesn't have an indoor commercial walk-in freezer, you will need to acquire and install the freezer. We recommend a freezer of at least 2520 cubic feet of shelved freezer space with 40 linear feet of shelving, and ramps for wheeled access, UL Listed and compliant with UL standard 471, self-contained refrigeration and other features meeting our standards. You may rent or lease the freezer from an unaffiliated lessor, which may reduce your costs to approximately \$1,250 per month rent for the first six months (totaling \$9250 plus applicable taxes), plus delivery charges which we estimate to be \$1,750, plus applicable taxes. The freezer is critical to operation of the Franchised Business, and you must obtain a service contract to maintain the freezer in good working order and repair the freezer within four hours of loss of cooling. You may obtain a used freezer for the \$30,000 amount in the Low Range column. You may also lease a freezer that we estimate will cost approximately \$2,500 for the first six months of the lease.

(4) *Delivery Vehicle.* You must obtain and operate a freezer-equipped ("reefer") delivery vehicle capable of storing at least 50 boxes (box dimensions 13.44 x 9.13 x 9.63 inches), equating to a minimum of 131.7 cubic feet of reefer cargo space. We suggest a light duty or medium duty van with a reefer body. We must approve the vehicle you propose to use for the Franchised Business. You may buy, lease or rent the vehicle but it must be wrapped with our standard vehicle wrap to promote the Franchised Business. If you rent or lease the vehicle, we estimate the cost to be \$8,000 for the first six months of the rental or lease period.

(5) *Computer Hardware.* We grant you a license to use our proprietary ordering and inventory management applications software while you are a franchisee in good standing. There is no additional license fee but you must supply the computer hardware and telecommunications services to operate the system. A standard laptop and desktop, plus a printer, and a tablet or cell phone for the delivery vehicle will be acceptable.

(6) *Miscellaneous Opening Costs.* Miscellaneous opening costs include incorporation fees; initial legal and accounting fees; utility deposits; business permit fees; and excludes pre-opening compensation and benefit costs for you and your Program Meals Business employees. You must begin paying people at their agreed compensation when they begin training.

(7) *Opening Inventory.* You must purchase in advance of opening, at least this amount inventory of Products from us or our affiliate supplier, which may be HTHM Supply. This purchase price represents approximately 5,000 units. The shelf life of the meals varies, but this supply should be sufficient for your first three weeks of operation.

(8) *Expenses while Training.* These costs are estimated based on two weeks of compensation, lodging, meals and transportation for the general manager of each Franchised Location during initial training. These costs will vary upon your compensation and expense arrangements with the training participants and the distance from our training site.

(9) *Additional Funds.* The Franchised Business will need working capital to sustain early-stage operations for a period of months after the Program Meals Business opens while the business gets established. The amount needed will depend on your estimate of when revenue will be sufficient to meet

cash flow needs. We recommend working capital of at least three months of rent, compensation costs, marketing expenses, utility costs and other operating expenses.

## **ITEM 8**

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

#### **Required Purchases**

As of the Issuance Date, you must purchase all equipment, fixtures, food products, condiments, supplies, paper products, computer hardware and software, and signage from vendors we approve or to meet our specifications published in the Operations Manual. We specify these requirements in our Operations Manual or otherwise in writing. You must purchase or lease these items only from approved suppliers listed in our Operations Manual or otherwise approved by us in writing. You may not purchase or lease from any source any other goods, services, supplies, fixtures, equipment, signs, inventory, or real estate relating or any other alternative supplier to the establishment or operation of your Franchised Business without our prior written consent. In particular, the freezer unit at your facility must meet our technical specifications and be capable of maintaining interior holding temperatures of zero to -4 degrees F. We must approve the design and specifications of your freezer before you commit to its purchase or lease.

#### **Required and Approved Suppliers**

All Products must be purchased from us or an affiliate we designate as the supplier of Product, such as HTHM Supply. We may designate other required or approved suppliers of goods and services used in your Franchised Business. We, HTHM Supply or an Affiliate may be the sole approved suppliers for proprietary goods or services, or for goods and services we deem to be integral parts of the Franchised System that must be supplied on a consistent, uniform basis to all franchisees. We or our Affiliates may earn a profit from providing purchasing and procurement services, including receipt of fees from third party suppliers. Our affiliate HTHM Supply is currently the only approved supplier for the Program Meals.

The freezer truck and its upfit of the freezer compartment must meet our technical specifications. We recommend a RAM Promaster City Tradesman cargo van on a 122.4" wheelbase and 131.7 cubic feet of cargo volume before upfit. We must approve any other make and model, which should offer at least that amount cargo volume before upfit. An approved supplier for the freezer upfit is Subzero Technologies, 45 E. Industry Court, Deer Park, NY 11729. Our approved freezer refrigeration unit is a Thermo King V220-20 MAX model with standby mode. Any other refrigeration unit or upfit supplier requires our prior approval.

An authorized supplier of the wrap for your reefer truck is Wrap Solutions, 30 6<sup>th</sup> Rd., Woburn, MA 0181. You may use any qualified wrap supplier that is a 3M certified vinyl installer, provided that you obtain our prior approval for the installer you select.

#### **Insurance**

Before you open your Franchised Business, you must obtain the type and amount of insurance coverage for the Franchised Business we specify in the Franchise Agreement, in the Operations Manual or otherwise in writing. You must obtain and maintain the specified insurance coverage during the term of the Franchise Agreement from a responsible carrier or carriers authorized to write coverage in your state having an A.M. Best rating of at least A-VI that we find acceptable. The type of coverage includes:

(1) Commercial General Liability coverage (\$1 million single limit per occurrence; \$2 million general aggregate limit, for both general liability and products /completed operations liability) for personal injury and property damage, including premises, independent contractors, products and completed operations, contractual, personal and advertising liability, on an occurrence basis, with coverage on a 1986 or later ISO commercial general liability form policy;

(2) “All Risk” property coverage including a property damage limit for the full cost of replacement of the Program Meals Business and business interruption coverage for up to twelve months of projected earnings;

(3) Business Automobile Liability covering liability arising out of any auto (including owned, hired and non-owned autos), with a minimum of \$1 million combined single limit each accident;

(4) Workers’ Compensation or legally appropriate alternative covering all employees and contractors working at the Program Meals Business for statutory limits and Employers Liability with minimum limits of \$1 million for bodily injury for each accident, \$500,000 bodily injury by disease for each employee and \$500,000 bodily injury disease aggregate;

(5) A \$2 million Umbrella Policy on an occurrence basis excess of covering excess of the underlying insurance described in (1), (3) and (4) above which is at least as broad as each and every underlying policy, provided that you may purchase more underlying coverage and less umbrella coverage under such policies as long as you maintain the total amount of the limits specified for each coverage area

(6) Other insurance as may be required by the state or locality of the Franchised Location;

(7) Employment practices liability insurance with a limit of \$500,000; and

(8) Employee Dishonesty/Fidelity insurance with a limit of \$100,000.

All of the liability insurance policies, other than Workers’ Compensation, must name us, Parent, and our respective officers, directors, members, shareholders, partners and employees as additional insureds on a primary noncontributory basis for operations of the Program Meals Business. The form of additional insured endorsement will be CG 20 10 or its equivalent. If the additional insured has other insurance applicable to a loss, it will be on an excess or contingent basis. The additional insured’s insurance coverage will not be reduced by the existence of such other insurance.

### **Approval of Alternative Suppliers; Product Specifications**

If you want to use a good or service or obtain a good or service (other than Products) from a supplier we have not yet approved, you first must submit sufficient information, specifications and/or samples for our determination whether the product or service complies with our System Standards, or the supplier meets our approved supplier criteria. We may establish and revise our approved supplier criteria from time to time as we deem appropriate and will make them available to our franchisees upon written request. We may condition our approval of a supplier on the supplier’s agreement to comply with product quality standards, frequency of delivery, standards of service, and concentration of purchase requirements. We also may impose limits on the number of approved suppliers, products and services. Our approval should not take more than 30 days in most instances. We reserve the right to test equipment or supplies and inspect the premises of suppliers before granting our approval. We will invoice you for the out-of-pocket costs and expenses we incur for any inspection or testing. We will not issue our approval of the supplier until you pay that invoice. We may terminate our approval of a supplier or any products or services at any time, with or without cause, upon reasonable written notice of 30 days.

We will formulate and modify our equipment, vehicle, technology, product and ingredient specifications and standards by reviewing each product on an individual basis, taking into consideration the supplier's ability to provide consistently high-quality products and services to you or our approved suppliers on a timely basis. We generally will formulate specifications and standards based on the quality of the products and other relevant factors. We periodically may review each product and respective supplier to make sure that the supplier is following the specifications and standards.

We may issue some of our technology, product and ingredient specifications and standards to our approved suppliers under appropriate confidentiality restrictions, but not to our franchisees. We may undertake other steps to maintain trade secrets and confidentiality of proprietary recipes and formulations, software and other items.

### **Revenue from Franchisee Purchases**

As of the Issuance Date, we derive no revenue or other material consideration from franchisee purchases. We may derive revenue from suppliers from franchisee purchases in the future in our sole discretion. We or our designated supplier affiliate will derive revenue from franchisee purchases of Products. None of our officers owns any interest in any supplier.

### **Percentage of Total Purchases Represented by Required Purchases**

Required purchases consist of items you must purchase from approved suppliers or under our established specifications. Your required purchases will represent approximately 100% of your total opening expenses (excluding the cost of real estate and improvements) and approximately 85% of your required purchases and leases.

### **Payments to Franchisor from Designated Suppliers**

We intend to negotiate preferred vendor agreements with designated suppliers and approved suppliers that we expect will provide favorable pricing and delivery terms to franchisees. These agreements may pay us revenues based on the volume of franchisee purchases, which may be measured in sales dollars or units sold. These arrangements are not in effect as of the Effective Date, but we expect them to be in place in the future.

### **Cooperatives**

We do not have any purchasing or distribution cooperatives.

### **Negotiated Purchases**

We may negotiate purchase arrangements or discounts for your Franchised Business. Certain of our suppliers may allow you to participate in the volume discounts we receive. However, these volume discounts will extend only to pricing terms and will not include any of the credit terms we have negotiated. We do not otherwise negotiate purchase agreements on behalf of our franchisees or any distribution cooperative, and do not guarantee pricing, credit or other terms for vendors by our franchisees. We do not represent and cannot guarantee that any particular supplier arrangement will be available to you as the availability of these arrangements may vary depending on whether the supplier services the area in which your Franchised Business will be located.

## Material Benefits

We do not provide any material benefits to you if you obtain goods or services from approved suppliers. We reserve the right not to grant franchises or confer other benefits to any franchisee, for any reason or no reason, which may include the failure of a Franchised Business franchisee to follow and support the System, including its recommended advertising programs and approved supplier programs.

### ITEM 9

#### FRANCHISEE'S OBLIGATIONS

##### FRANCHISE AGREEMENT

This table lists your principal obligations under the Franchise Agreement. It will help you find more detailed information about your obligations in that agreement and in other items of this Disclosure Document.

<u>Obligation</u>	<u>Section in Agreement</u>	<u>Disclosure Document Item</u>
a. Site selection and acquisition/lease	3.01, 3.02(b), 3.02(e)	11
b. Pre-opening purchases/leases	3.04, 3.05, 6.01(a), 9.08, 9.14	8
c. Site development and other pre-opening requirements	2.04, 3.02(d), 3.04, 5.04, 9.02, 9.03, 9.06, 9.07	6, 7 and 11
d. Initial and ongoing training	8.04, 9.03, 9.04	11
e. Opening	3.05	11
f. Fees	5.01, 5.02	5, 6 and 7
g. Compliance with standards and policies/operating manual	2.07, 7.04, 7.05, 7.09, 7.10, 9.01, 9.16, 9.17, 9.22	11
h. Trademarks and proprietary information	2.07, 4.02, 4.03, 4.04, 4.05, 12.01, Schedule D	13 and 14
i. Restrictions on products/services offered	2.03, 3.03, 7.06, 7.08, 8.09, 9.01, 9.12, 9.19(d), 9.20	16
j. Warranty and customer service requirements	9.02, 9.18	9
k. Territorial development and sales quotas	2.02	12
l. Ongoing product/service purchases	9.11, 9.13	8
m. Maintenance, appearance, and remodeling requirements	3.02(d), 3.03, 9.08, 9.09	11
n. Insurance	9.07	6 and 8
o. Advertising	7.07, 8.13, 9.19, 9.20	6 and 11
p. Indemnification	14.01	6
q. Owner's participation/management/staffing	2.04, 9.02, 9.05, 10.05(c), 10.08, 10.09	11 and 15
r. Records and reports	5.02(1), 6.01, 6.02, 7.01, 7.02	6
s. Inspections and audits	6.03, 6.04, 9.10	6
t. Transfers	10.02, 10.04, 10.07	6 and 17
u. Renewals	2.05	17
v. Post-termination obligations	11.04, 11.06, 11.08, 11.09, 12.03	17

<u>Obligation</u>	<u>Section in Agreement</u>	<u>Disclosure Document Item</u>
w. Non-competition covenants	12.02, 12.03, 12.04	17
x. Dispute resolution	16.03	17
y. Other - Guaranty	Article XIII, Schedule F	1, 15

## **ITEM 10**

### **FINANCING**

Except as stated below, we do not offer direct or indirect financing. We do not guarantee your note, lease, or obligation.

We secure your obligation to pay for Products with a Security Agreement in which you grant to us a first priority purchase money security interest in the Products you purchase from us or our supplier affiliate and the proceeds from the sale of the Products to customers. The Security Agreement prohibits you from granting any secondary security interest in the Products or their proceeds. The Security Agreement requires that you maintain the Franchise Agreement in good standing, give notice to any landlord of the Franchised Location of our security interest, and generally reserves to us or our affiliate the rights of a purchase money security interest holder under the Uniform Commercial Code. If you fail to pay any invoice for Products when due, and such failure continues for thirty (30) days after written notice of default from us, we may initiate proceedings to foreclose on the collateral and take possession. We reserve the right to purchase any deficiency between the value of recovered collateral and the amount owed for unpaid Product invoices. You must maintain the collateral in saleable condition in the Franchised Location except for sales in the ordinary course of business and returns we authorize. The Security Agreement requires you to waive defenses and asserting any right or counterclaim arising under or relating to the Franchise Agreement as a defense under the Security Agreement.

## **ITEM 11**

### **FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING**

**Except as listed below, we are not required to provide you with any assistance.**

Before you open your Franchised Business:

(1) We do not typically own the Franchised Location and lease it to you. The Franchisor must approve your proposed location before the lease or purchase agreement for the Franchised Location is signed, or you select your home as the Franchised Location. The Operations Manual will specify a form for each proposed location to be completed and submitted by you to us. (Franchise Agreement Section 3.01)

(2) We will review the information you submit for each proposed site for a Franchised Location, conduct any investigation of the proposed site we deem appropriate to evaluate the site, and accept or reject the site. For specifications regarding the factors contributing to the acceptance or rejection of a franchise site, see Site Selection below. (Franchise Agreement Section 3.01(b))

(3) We will accept or reject each proposed Franchised Location site within 30 days after your submission of all initial and supplemental information we request regarding a proposed site. If we accept the site (the “Acceptance Date”), we will give you notice of any remaining conditions to that acceptance.

If we reject the site, we will give you the reasons for the rejection. If possible, you may submit the site information before you sign the Franchise Agreement so the accepted location will be listed in the Franchise Agreement when you sign it, in which case the Acceptance Date is the date of the Franchise Agreement. The Acceptance Date must occur no later than 90 days after the date of the Franchise Agreement. (Franchise Agreement Section 3.01(b))

(4) We must approve the terms of your lease or purchase agreement for the approved site and any modifications or amendments, if applicable, before you sign the lease or purchase agreement. We will review the lease or purchase agreement and any modifications or amendments to the lease or purchase agreement and accept or reject your lease or purchase agreement for the Location within 30 days after your submission of all initial and supplemental information we request regarding the proposed lease or purchase agreement. Each Franchised Location must be owned by you or under lease to you and not to an affiliate if you do not own the real property. We do not review, provide advice on or approve any financing you obtain for your development costs. The date you sign the approved lease or purchase agreement is the “Commitment Date” and you must provide us with a copy of the signed document within 5 business days after the Commitment Date. Your lease must include our form of Lease Rider, which allows us to compel you to assign your lease to us and compels the landlord to accept the assignment of the lease, under certain conditions, if you default and fail to cure the default. (Franchise Agreement Section 3.01(b))

(5) We will have the right to terminate the Franchise Agreement if you fail to either (1) (i) gain our acceptance of your proposed Franchised Location, and (ii) sign a lease or a purchase agreement we approve for the accepted Franchised Location so that the Commitment Date occurs within 45 days after the Acceptance Date. (Franchise Agreement Section 11.01(s))

(6) We will designate the Territory for your Franchised Business as part of the acceptance process. We may modify the Territory if you don’t meet the performance criteria specified in the Franchise Agreement in our sole discretion from the area described in the Franchise Agreement. (Franchise Agreement Section 2.02)

(7) We will provide you with our standards for the commercial freezer, specifications for layout of the interior, mechanical and electrical systems, equipment, décor, and signs for a prototype Franchised Business that we make available to franchisees. We will not provide these items to you directly for the Franchised Location. We do not provide assistance with the delivery and installation of these items. (Franchise Agreement Sections 3.01)

(8) We will review and comment on your site plan and final plans and specifications for conformity to System Standards. (Franchise Agreement Section 3.01(c))

(10) We will provide your Owner-Operator, and one other person you select with initial training in the System and methods of operating a Franchised Business before the opening of your Franchised Business. See details of the franchise training program below at Training. During the initial training or prior to the opening of the Franchised Business, we will provide you with two (2) uniforms, will arrange for the installation at the Premises of our designated ordering and inventory management software and will conduct an initial marketing program for the launch of the Franchised Business. (Franchise Agreement Section 8.01)

(11) Except as set forth above, we do not provide you with assistance in locating a site, negotiating a purchase or lease of the site, conforming the premises to local ordinances and building codes, obtaining any required permits, constructing, remodeling or decorating the premises, hiring and



training employees, and providing for necessary equipment, signs, fixtures, opening inventory and supplies. (Franchise Agreement Section 3.02(a))

### **Site Selection**

You will have responsibility for selecting the site for your Franchised Location and submitting information on the site review form we include in the Operations Manual. We have the right to accept or reject the site you select. In determining whether to accept or reject a site, we will consider demographic evaluations, traffic patterns, population density of our target population (persons over 70 and persons unable to prepare their own meals living in residences, group and institutional settings), proximity to activity centers and employers, physical site profiles, competition in the market area, and other factors. By accepting the site, we make no representation or guarantee to you that the Franchised Location you select will be successful. We have no obligation to provide any assistance in locating a site, negotiating the lease, conforming the premises to local codes and ordinances, obtaining permits, constructing, remodeling or decorating, hiring and training employees (except for the training we provide described in Training below), or providing for necessary equipment, signs, fixtures, opening inventory and supplies, except for the opening inventory of Products purchased from us or our designated supplier. You must propose a location, obtain our acceptance of your proposed location within 90 days after the date of the Franchise Agreement (defined as the Acceptance Date above), and enter into a signed lease or a purchase agreement in the form we approve for the approved site within 90 days after the Acceptance Date (described as the Commitment Date above). (Franchise Agreement Sections 3.01, 3.02, 3.04)

### **Typical Length of Time to Open**

Based on the experience of our company-owned locations, we estimate that it will take approximately 90 days after the Commitment Date to prepare the Franchised Location, install the freezer, obtain the delivery truck and open a Franchised Business. We set the opening deadline for the Franchised Business at 180 days after the date of the Franchise Agreement. Factors that may affect that time period for developing a Franchised Business include local permitting and approvals, availability of your selected contractors and their subcontractors, supply chain delays in obtaining required building materials, the freezer, a suitable truck and other necessary items. Under the Franchise Agreement, you have up to 30 days after signing the Franchise Agreement to attain the Commitment Date and then 60 days after the Commitment Date signing in which to open your Franchised Business, which extends to one year after the Commitment Date for new build projects. (Franchise Agreement Sections 3.05, 11.01(t))

### **Post-Opening Assistance**

(1) We will provide franchise training program participation opportunities for your replacement and additional managers on our one-week training course, when previously trained managers are replaced. You must reserve training program dates and pay the related fees when required under Operations Manual. You are responsible for your trainees' travel, lodging, meal, incidental, compensation and benefit costs for their attendance at training. (Franchise Agreement Sections 8.02, 9.04(b))

(3) We will publish a list of approved suppliers and their respective approved products and services in the Operations Manual and/or in other written or electronic communications to you. As new suppliers, products and services become available, we will amend that list. (Franchise Agreement Section 8.08)

(4) We will provide you with the merchandising, marketing and advertising research data and advice that we develop from time to time and deem helpful in the operation of a Franchised Business. (Franchise Agreement Section 8.07(a))

(5) We will conduct periodic field evaluations and quality assurance inspections of the Franchised Business to test and promote its compliance with System Standards and quality controls. These evaluations and inspections may offer suggestions and recommendations about your staffing but you have no obligation to follow the suggestions or recommendations. We may conduct mystery shopping and customer surveys for Franchised Businesses and share the results with franchisees. (Franchise Agreement Section 8.07)

(6) We will provide you with periodic individual or group advice, consultation and assistance by personal visit, by telephone, electronic communication, or by newsletters or bulletins that we make available to our franchisees. These consultations will cover training employees, selecting and purchasing supplies, formulation and implementation of local advertising and promotional programs, and the establishment of accounting, inventory control and general operating procedures. (Franchise Agreement Sections 8.02, 8.07)

(7) We will provide you with any other materials in any medium that we may develop to communicate new developments, techniques, and improvements in the System and our plans, policies, research, developments and activities to franchisees. (Franchise Agreement Section 8.07)

(8) We will provide you with other resources and assistance that we may develop and make generally available to all of our other franchisees. Under no circumstances will we act directly or indirectly to control, nor do we reserve the right to control, the terms and conditions of employment for your employees, or advise you on your hiring, scheduling, supervision, discipline and termination decisions. (Franchise Agreement Sections 8.07, 9.02)

(9) We will consider your request to continue affiliation with the System through a Successor Franchise Agreement upon your satisfaction of the conditions described in the Franchise Agreement. (Franchise Agreement Section 10.02)

(10) We will review any proposed transfer of your Franchise Agreement or Franchised Business and either approve or disapprove that proposed transfer. (Franchise Agreement Section 10.02(c), 10.02(d))

Except as set forth above, we have no obligation to assist you during the operation of the franchise, and we have no obligation to provide you with assistance in developing products and services you will offer to your customers, hiring and training employees, improving and developing the Franchised Business, establishing prices, establishing and using administrative, bookkeeping, accounting and inventory control procedures, and resolving operating problems you encounter in running the Franchised Business. (Franchise Agreement Sections 3.02(a), 9.02)

### **Advertising Council**

We currently have no advertising council composed of franchisees. We have no obligation to create an advertising council. We may develop a council in the future.

## **Local Marketing**

You are obligated to spend three percent (3.00%) of Gross Sales (in addition to the Marketing Fund Fee) on local marketing, advertising and promotion annually. We may, but are not obligated to, assist you with the review of local media campaigns. These efforts may include of advertisements in local newspapers serving the Territory and on-site presentations and demonstrations to target customer groups, hospitals and other health care facilities and senior care homes. Local marketing and promotional expenses include the cost of direct mail solicitations, public relations activities, community events and sponsorships, newspaper advertisements, telephone book listings and advertisements, and other distributed promotional materials. Local marketing and promotional expenses do not include amounts spent on sign rental, paper products, or food items which may contain one or more of the Marks. We may, but are not obligated to, provide you with standard print media advertising templates to use locally. You will submit for our approval samples of all advertising and promotional materials that you wish to use at least thirty (30) days before making any financial commitment to use the materials. We will provide notice of any objections to the proposed materials within ten (10) days after its receipt. If you fail to discontinue the use of any unapproved materials within five (5) days after notice from us, we may enter the Franchised Business, remove any unapproved materials and hold the materials for proper disposition.

If any applicable local newspaper or directory serving the Territory also services the territory or territories of one or more other Heart to Home Meals franchisees, we shall have the right to require that Franchisee and such other franchisees jointly place an advertisement in such newspaper or other directory, whether by electronic means or otherwise, which advertisement shall contain information pertaining to the Heart to Home Meals Business of each such franchisee. The cost of any such advertisement shall be borne equally by you and such other franchisees.

All advertising and promotion conducted by you shall be completely factual and shall conform to the highest standards of ethical advertising. You shall submit any proposed advertisement or promotional material to us for our written approval, prior to use by you, and you will not engage in any unapproved marketing or promotion of the Franchised Business.

Within thirty (30) days of the end of each calendar year, or at such other time or times as reasonably required by us, you shall provide to us such evidence or proof of its expenditures on local advertising and promotion conducted during the immediately preceding calendar year. If we review the financial reports and determine that you are spending less than 3% of Gross Sales on local marketing activities, then we may require your to submit to us a marketing plan and budget acceptable to us demonstrating your plan to meet this local marketing spending obligation within thirty (30) days after Franchisor sends its request for the plan and budget. Your failure to submit the plan and budget as and when requested, and then spend to the approved budget, will be a material breach of the Franchise Agreement.

We may, in our sole discretion, establish special promotional campaigns applicable to the System as a whole or to specific advertising market areas. You shall, at your sole cost and expense, participate in any such promotional campaigns which may include the purchase, lease, installation and/or use of cards, posters, banners, signs, photography or give-away items. We may, in our sole discretion, provide funding to support a campaign, including funding from the Marketing Fund, based on its analysis of the relevant markets. (Franchise Agreement Section 9.19).

You are not authorized to establish or create a website on the internet or have any other internet or social media presence in connection with the Franchised Business, without our express written consent, which consent may be given or withheld in our sole discretion. (Franchise Agreement Section 9.20).

## **Local Advertising Cooperatives**

We may establish one or more advertising cooperatives at any time and, further, may modify, terminate and reform any existing advertising cooperative at any time in its sole discretion. If the Franchised Business operates within a DMA for which an approved advertising cooperative exists, you will be obligated to contribute to the advertising cooperative the amounts required by the cooperative up to 2% of the Gross Sales of the Franchised Business during each month. Any such payments made to any cooperative will count towards satisfaction of the minimum local advertising spending under Section 9.19 of the Franchise Agreement. All System Franchised Businesses that we or our Affiliates operate will participate in any advertising cooperative that we establish for the DMA in which they are located on the same basis as the Franchised Business in the DMA. We will administer the cooperative unless we designate another party to perform the administrative functions. The cooperative may have written governing documents that we must provide or approve, which will be available for all participants in the cooperative to review. Each cooperative will maintain accounting records and compile financial statements that will be available for review by all participants. We retain the power to require any cooperative to be formed, changed, dissolved or merged with another cooperative. (Franchise Agreement Section 8.12).

## **Marketing Fund**

We reserve the right to establish a Marketing Fund (the "Marketing Fund"). If and when we do so, you will commence paying a Marketing Fund Fee monthly to us at a rate we set between 2% and 5% of Gross Sales for the preceding month. We will account for all Marketing Fund Fees we collect in a separate account. All other franchisees and all Franchised Businesses operated by us and our Affiliates will contribute at the same rate to the Marketing Fund. We also may deposit the marketing, promotional, and other payments we receive from suppliers into the Marketing Fund.

We will administer the Marketing Fund and will disburse the Marketing Fund to pay for marketing, advertising, promotional, public relations, and other similar activities intended to benefit the System and all franchised and Affiliate-owned locations on a national or regional basis. Those activities may include (without limitation) (a) market research, (b) technology development and implementation, (c) customer service, loyalty and reward programs, (d) media purchases, (e) advertising production, (f) advertising and public relations agency fees and expenses, (g) product research and development, (h) developing and implement marketing strategies, annual Unit marketing plan templates and supporting the evolution of the Grand Opening Plan, and (i) developing and protecting our intellectual property. We also may use the Marketing Fund to pay or reimburse us for our administrative overhead incurred for activities supported by the Marketing Fund. Any money in the Marketing Fund not spent at the end of each fiscal year will remain in the Marketing Fund, provided that amounts contributed to the Marketing Fund may be used to pay taxes associated with unspent amounts on deposit in the Marketing Fund. We will have the sole and exclusive discretion to direct all activities and programs funded by the Marketing Fund. The Marketing Fund will not be separately audited, and we have no obligation to make its financial statements available to franchisees. We have no obligation to expend Marketing Fund amounts for your benefit equivalent or proportionate to your Marketing Fund Fees, and we do not warrant or guarantee that you will receive or derive any benefit from Marketing Fund activities. We will make all studies and reports produced by the Marketing Fund available to you at no cost as Confidential Information. We will make copies of all materials produced by the Marketing Fund for franchisee use available to you at your expense. We may suspend, terminate, and reinstate the Marketing Fund at any time. The Marketing Fund will not terminate, however, until we have spent all money in the Marketing Fund for the purposes set forth above. Upon your written request, we will provide you a copy of our annual report of expenditures of the Marketing Fund during the most recently ended fiscal year on a confidential basis. (Franchise Agreement Section 8.11).

You are not obligated to participate in any other advertising fund in addition to the Marketing Fund, the advertising cooperatives to which your franchise may be assigned as of the Effective Date. The Marketing Fund has had no contributions as of October 2023, and no Marketing Fund disbursements were made in 2022. We will not use the Marketing Fund to solicit new franchise sales. Consumer advertising copy for which the Marketing Fund pays may include solicitations of interest for prospective franchisees.

### **Computer Systems**

You must purchase and install before opening your Franchised Business the hardware and software to run a computer-based management system, including our proprietary ordering and inventory management applications that we make available to you. We will advise and work with you to select these systems from our approved solutions. We require you to use the systems described below to assist you in operating your Franchised Business. These systems will generate or store data such as customer data, labor data, financial information, and transaction details. (Franchise Agreement Section 9.14)

Our current approved Computer System consists of a Windows PC and an internet connection. It includes the following hardware:

- Windows PC (Laptop or Desktop) with the following minimum requirements:
  - 8GB Ram
  - 512GB SSD
  - AMD R Series or Intel Core i5 CPU
- Internet Connection with the following minimum requirements:
  - 50 Mbps download speed
  - 5 Mbps upload speed
- Color Printer
  - Printer must at a minimum print in color and be able to print 100 sheets of paper at a time.

The Computer System may vary if or as we update and approve comparable systems. (Franchise Agreement Section 7.09)

We estimate the cost of the software subscriptions and integrations to be a minimum of \$138 per month as of the Issuance Date, based on one user license per software. This includes the following required software:

- ERP Software (Business Central)
  - \$50/user/month
- Microsoft License (Minimum of F3 license to use Microsoft Teams and Microsoft Outlook. License can be upgraded for additional cost paid by the Franchisee.)
  - F3 license: \$8/user/month billed annually
- Order Routing Software (OptimoRoute, Pro Plan)
  - \$49/vehicle/month
  - Text notifications charged at \$0.01/text
- VoIP Phone Software (Ring Central)
  - \$31/line/month + applicable taxes by state
  - Reporting license can be purchased for addition \$13.75/user/month

In addition, you will be required to setup a Merchant Account with Bambora for credit card processing, we estimate the charges for Bambora will be as follows:

- Payment Processing Provider Software (Bambora)

- \$0.15 per transaction (Pre authorization, Approved Transaction, and Declined) and Credit Card effective rate 2.55%

The vendors may change these subscription fees at their discretion under their terms of service. We may provide technology support services via telephone, text and electronic mail. We do not currently charge for these support services, but we may impose a technology fee in the future to provide funding to cover the costs plus overhead for these services. (Franchise Agreement Section 5.02(k))

We estimate that that required hardware will cost between \$1,500 and \$3,000 to purchase. We are not obligated to provide any ongoing maintenance, repairs, upgrades, or updates. We do not require you enter into any such contract with a third party, other than your monthly subscription for the required systems listed above. You must upgrade or update any system when we determine. There is no contractual limit on the frequency or cost of this obligation. We estimate that the annual cost of any optional or required maintenance, updating, upgrading, or support contracts will be \$5,000 to \$10,000. (Franchise Agreement Section 7.01)

No compatible equivalent components or programs have been approved by us to perform the same functions. We reserve the right to change our supplier of software services and electronic cash register systems. The Computer System's hardware, software and configuration may also vary if or as we update and approve comparable systems. (Franchise Agreement Sections 7.01, 7.09)

You must give us independent access to the information that will be generated or stored in these systems. The information that we may access will include sales transactions, customer data, and reports. There is no contractual limitation on our right to access the information. (Franchise Agreement Sections 6.01(b), 7.02, 9.14)

You are obligated to install the software upgrades and patches as provided by them. We also provide support in the form of advice on using and maintaining the system on an as-needed basis. You are responsible for hardware repairs or replacement of systems that are no longer covered under warranty. There are no contractual limitations on the frequency or cost of this obligation. (Franchise Agreement Section 7.01)

The amounts for the management system include the estimated costs of purchasing an approved system, including back-office equipment, touchscreen and tablet displays, remote and receipt printers, software licenses, and all other related components and peripherals. We currently contemplate that enhancements or upgrades could be made on an annual basis. The vendors may charge you a fee for the enhancements and upgrades. (Franchise Agreement Section 7.01)

At our request, you shall participate in any intranet or extranet system developed for use as part of the System. Such intranet or extranet system may be combined with that of our Affiliates. You shall also sign such terms of use agreements concerning the use of such intranet or extranet system as we may prescribe, which agreements may contain, among other things: (a) confidentiality requirements for materials available and transmitted on such system; (b) password protocols and other security precautions; (c) grounds and procedures for our suspension or revocation of access to the system by you and others; and (d) a privacy policy governing the parties' access to and use of electronic communications posted on electronic bulletin boards or transmitted via the system. You shall pay any fee imposed from time to time by us, or a third-party service provider in connection with hosting such system. (Franchise Agreement Section 7.05)

We may modify System Standards to require new technology at all Franchised Businesses, which may require you to upgrade and update the systems you use in the Franchised Business. We have no

obligation to repair, maintain, upgrade or update any management or back-office system during the term of the franchise. There is no contractual limitation on our right to mandate upgrades and updates. The approved vendor of the hardware systems may charge you a fee for maintenance, repairs, updates and upgrades to hardware. The annual cost of such maintenance, repairs, updates or upgrades will depend upon our agreement with the hardware vendor. (Franchise Agreement Sections 2.07, 7.09, 8.07)

You will maintain your management systems on-line so that we may independently access them remotely at our discretion, copy your POS and management data, update software, and view all records, files and reports available on or from those systems. You will not purge data unless so permitted under the Operations Manual. There are no contractual limitations on our right to access this information. (Franchise Agreement Sections 6.01(b), 7.02)

You should expect to update your systems, computer, food inventory storage, business management, training, and communications technology periodically during the term of your Franchise Agreement to keep pace with the evolution of such technology and its applications in food delivery services. We may designate ourselves or an affiliate as the sole source of technology you are required to obtain, operate, and maintain for the Restaurant. (Franchise Agreement Sections 7.01, 7.09)

### **Operations Manual**

The Table of Contents for the Operations Manual, showing the topics and number of pages dedicated to those topics, appears as Exhibit E to this Disclosure Document. The Operations Manual has a total of approximately 180 pages. We implement and enforce the Operations Manual and System Standards to promote our brand, enhance consistency among our Restaurants, and protect the goodwill of the Marks. Any aspect of the Operations Manual that relates to any aspect of the terms and conditions of employment for your employees is not mandatory and is merely suggestive and provides only recommendations. (Franchise Agreement Sections 9.01, 9.02)

### **Training**

#### **TRAINING PROGRAM**

<b><u>SUBJECT</u></b>	<b><u>HOURS OF CLASSROOM TRAINING</u></b>	<b><u>HOURS OF ON-THE-JOB TRAINING</u></b>	<b><u>LOCATION</u></b>
Introduction and Business Overview	3	1	Head Office, Marlborough, MA
Product Review	1	2	Head Office, Marlborough, MA
Daily Operations and Equipment	1	6	Head Office, Marlborough, MA
Warehouse and Inventory Management	2	3	Head Office, Marlborough, MA
Service Standards	2	3	Head Office, Marlborough, MA
Administration and Process	4	1	Head Office, Marlborough, MA
Marketing and Sales	2	4	Head Office, Marlborough, MA
Review and Franchise Supports	4	1	Head Office, Marlborough, MA

<b><u>SUBJECT</u></b>	<b><u>HOURS OF CLASSROOM TRAINING</u></b>	<b><u>HOURS OF ON-THE-JOB TRAINING</u></b>	<b><u>LOCATION</u></b>
<b>TOTAL</b>	<b>19</b>	<b>21</b>	

Prior to the opening of the Franchised Business, the Franchisor will provide training to an Owner-Operator and to one (1) additional person designated by the Franchisee. The initial training program consists of training in all aspects of the System and the management and operation of a Heart to Home Meals business including training in food handling, customer service, driver training, marketing and promotion, office administration and reporting and employee training. The initial training program takes place over seven (7) days at the Franchisor’s head office or, if required, it may be given virtually by way of a web-based classroom platform or other online resource. The cost of the initial training is included in the Initial Franchise Fee. However, the Franchisee is responsible for all travel, living expenses and wages or other compensation payable to its attendees during their attendance at training.

The instructors for our training program and their relevant experience are:

<b>Instructor</b>	<b>Years Experience in Industry</b>	<b>Years Experience with Us and our Affiliates</b>
Raymond Costello	15	1.5
Sheila Ford	3	3
Sebastian Beaudet	6	3

The Franchisor will furnish continuing advice and guidance to the Franchisee as reasonably required with respect to System and the operation by the Franchisee of its Heart to Home Meals Business, as more particularly described in the Franchise Agreement. At the Franchisee's request, the Franchisor may provide special assistance for which the Franchisee will be required to pay such fees and expenses as the Franchisor designates.

The Franchisee is required to operate the Franchised Business in accordance with the Manual, the table of contents of which is attached as Exhibit E to this Disclosure Document.

## **ITEM 12**

### **TERRITORY**

#### **Franchise Agreement**

The Franchise Agreement grants you the right to operate a single Franchised Business in the Territory from the Location approved by us and you may not relocate the Location without first obtaining our written consent. You may not establish or operate another Franchised Business serving another Territory unless you enter into a separate Franchise Agreement for that Franchised Business. You may only market and solicit for the services and products offered by the Franchised Business to customers that are located within the Territory.

We examine the boundaries, size and target population of the area in which you are interested and determine the “Territory,” which is stated in Attachment A of the Franchise Agreement you sign. The target population is the number of persons over 70 years of age living in their own homes, and any other identifiable persons who cannot prepare their own meals. The Location must be within the Territory.



Since the Territory is defined with respect to the specific Location we approve, if you have not selected and we have not approved a Location at the time you enter into a Franchise Agreement with us, we will specify a geographic area (the “Target Area”) in the Franchise Agreement within which you must locate the Franchised Business. When we approve a Location, we will then specify the Territory by notice to you in the form attached to the Attachment A to the Franchise Agreement. We may define Territories that have common boundaries and adjoin one another, and there is no minimum spacing or separation between Territories. We usually define the Territory by zip code boundaries created by the U.S. Postal Service, so a delivery address will be readily identified as within or outside a particular Territory.

A Franchisee’s rights to exclusivity of the Territory are subject to compliance by the Franchisee from time to time with any Sales Target imposed by the Franchisor. If the Franchisee fails to achieve any such Sales Target, the Franchisor has the right, without waiving its right to terminate the Franchise Agreement or to modify the size or boundaries of the Territory and in such event, the geographical description of the Territory will be deemed to be amended to describe the reduced Territory. In addition, but without waiving the Franchisor’s right to modify the Territory, if the Franchisee fails to provide the Products to customers in any discrete part of the Territory or fails to provide the Products to a customer within a reasonable time following a customer’s request therefor, the Franchisor may grant to others, including the Franchisor or its Affiliates, the right to provide the Products in such discrete part of the Territory or to any such customer for such period of time as the Franchisor determines, unless and until the Franchisee demonstrates to the Franchisor’s satisfaction that the Franchisee will provide Products to the affected part of the Territory or to the customer consistent with System Standards.

We generally will consider the relocation of a Franchised Business under the same criteria as we would consider for an application to approve any new location, such demographics, traffic patterns, physical site profiles, access, parking, competition in the market area, and other factors.

You will receive an exclusive Territory. We retain the right to operate and license or franchise other persons to operate a Franchised Business at any location outside of your Territory. We retain the right to market and sell within or outside the Territory without compensation to you, at any location, under trademarks, service marks, and commercial symbols different from the Marks. We also reserve the right, directly or through any affiliate, offer, distribute, sell and provide the Products identified by the Marks or by other names trademarks or commercial symbols to customers located in the Territory through any distribution channel including without limitation at retail stores, through the Meals on Wheels program, to non-traditional venues (including long-care homes and hospitals), online by the internet (or any other existing or future form of electronic commerce) and irrespective of the proximity to the Franchised Business. However, all orders for delivery of Products to customers for home consumption received by the Franchisor through the internet or other form of electronic commerce shall be referred to the Heart to Home Meals Business franchisee in whose Territory the customer is located. The franchisee shall be obligated to fulfil the order as if such order had been received by the franchisee directly. If there is no Territory of a Heart to Home Meals Business franchisee covering that customer’s location, then the Franchisor shall have the right to fill the order directly or through an affiliate.

A franchisee is not permitted to solicit or accept customers from any area that is within the Territory of another franchisee.


We have no present intention but may in the future operate, franchise, plan to operate or franchise a business under a different trademark that sells or will sell goods or services similar to those a System franchisee will offer. This could include any service or business that offers meals to senior citizens and infirm persons, either on a self-paid basis or as part of a publicly funded or administered support program. The meal recipients may live at home, or be patients in hospitals, acute care facilities or some other institutional or group home setting. The meals may be delivered through a local “Meals on Wheels”

charitable program. Such a business could be located or have an outlet in the Territory or distribute meals to customers within the Territory.

**ITEM 13**

**TRADEMARKS**

The Franchise Agreement grants you the right to operate a Franchised Business under the Marks. FIH has registered with the United States Patent & Trademark Office (“USPTO”) the following Marks:

<b>Mark</b>	<b>Registration Number</b>	<b>Principal or Supplemental Register</b>	<b>Registration Date</b>
Heart to Home Meals	5158658	Principal	March 14, 2017
Words Plus Design 	5158662	Principal	March 14, 2017

All required affidavits have been filed. No renewals have yet been required. If our right to use the trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses.

There are no currently effective material determinations of the USPTO, the Trademark Trial and Appeal Board, or any state trademark administrator or court, or any pending infringement, opposition or cancellation proceedings affecting the Marks. There is no pending material federal or state court litigation involving the use or ownership rights in a Mark. We know of no superior rights or infringing uses that could materially affect your use of our Marks; however, we cannot guaranty that a person in the same business as the Franchised Business or other user is not operating under Heart to Home Meals or another confusingly similar name that may have priority over our or our use.

Effective as of September 29, 2023, FIH licensed the Marks and the System to us under a trademark license agreement. We are granted a worldwide license of the Marks and System with the exclusive right to franchise the Marks and the System for 60 years. We are obligated to assure that all sublicensees comply with quality standards set by FIH. The trademark license agreement can be terminated by FIH only if we breach the agreement and fail to cure the breach within 30 days after receiving written notice of the breach, or if we become insolvent or are unable to pay our debts as they become due, or we commence a case for relief or reorganization, or are the subject of an involuntary case for relief or reorganization under the Federal Bankruptcy Code or under any other state or federal bankruptcy or insolvency laws, and such involuntary case continues for more than ninety (90) days after its initial filing without dismissal. At termination of the trademark license agreement, we are obligated to assign to FIH or its designee all license, franchise and sublicensing agreements which we have entered

into for the use of the Marks and the System, which shall continue in full force and effect until the expiration of the terms then in effect. If such an assignment occurs, FIH will not assume any liabilities that pre-date the assignment, for which we will remain liable.

We have no affirmative duty to protect your right to use the Proprietary Marks but intend to take appropriate actions if the need arises. We have the right to control any administrative proceedings or litigation involving a Mark we license to you. If anyone institutes or threatens litigation involving any component of the System, including the Marks, against you, you must notify us promptly and cooperate fully with us in defending or settling the litigation. We will have control over the defense and settlement of any administrative proceeding or litigation regarding the System. You also should notify us immediately when you learn about any infringing use of the Marks, any challenge to your use of the Marks, and any use or claim of the right to use any trademark or service mark confusingly similar to the Marks.

Except as stated above, we do not have any obligation to take any affirmative action, participate in your defense, or indemnify you for expenses or damages if you become a party to an administrative or judicial proceeding involving a Mark we license to you or if the proceeding is resolved unfavorably to you. If we must, or we decide to, change the System and discontinue the use of any of the Marks, we reserve the right to substitute different proprietary marks for use in your identifying the Franchised Business. We have no obligation to compensate you for the discontinuance or modification of any Mark, or the cost of changing the primary mark of the Franchised System.

You may not use the Marks to offer or sell any services or products not a part of the System that we do not first otherwise approve. You must comply with the rules and guidelines we issue for using the Marks. You cannot use a Mark as part of a corporate name or with modifying words, designs or symbols, except for those which we license to you. You also cannot display or erect any other mark on your office, stationery, advertising, sales/promotional materials or other objects, except for those Marks licensed to you. You may not use any Mark to promote or identify the sale of an unauthorized product or service, or in a manner we do not authorize in writing.

#### **ITEM 14**

#### **PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

Other than our copyright in our Operations Manual, we do not own any patents or copyrights and have no pending patent applications material to the Franchised Business. We own certain proprietary information that constitutes trade secrets that you may use in the operation of a Franchised Business. You will have the right to use the proprietary information contained in the Operations Manual. Although we have not filed for copyright registration for the Operations Manual, we do claim a copyright in it and the information contained in it does constitute proprietary information. The Franchise Agreement will obligate you to protect our proprietary information from unauthorized use and disclosure, and to have your equity owners, managers, employees we designate in the Operations Manual sign a confidentiality agreement in the form we prescribe (Franchise Agreement, Schedule G). You must tell us promptly when you learn about any unauthorized use of the Operations Manual, or the information contained in it. We have no obligation to take any action in that event; however, we will respond as we deem appropriate.

There are no currently effective material determinations of the United States Copyright Office or any court, or any pending material proceeding that would affect our copyrights. We have no agreements which would limit our right to license the use of any existing or future patents, copyrights or proprietary information. Although not obligated under any express provision of the Franchise Agreement, we intend to protect our rights in our existing and future patents, copyrights and proprietary information.

If anyone institutes or threatens litigation involving any of our patents, copyrights or proprietary information against you, you must notify us promptly and cooperate fully with us in defending or settling the litigation.

We will have control over the defense and settlement of any administrative proceeding or litigation regarding any patents, copyrights or proprietary information relating to the Franchised Business system. You also should notify us immediately when you learn about any infringing use of our patents, copyrights or proprietary information or any challenge to your use of our patents, copyrights or proprietary information.

Except as stated above, we do not have any obligation to take any affirmative action, participate in your defense, or indemnify you for expenses or damages if you become a party to an administrative or judicial proceeding involving any patents, copyrighted material, or proprietary information licensed by us to you or if the proceeding is resolved unfavorably to you.

If we must discontinue the use of any of our patents, copyrighted materials, or proprietary information relating to the Franchised Business system, we reserve the right to substitute different materials and/or information for use in your Franchised Business, but we have no obligation to compensate you for the discontinuance or modification of any patents, copyrighted material, or proprietary information. We know of no infringing rights that could materially affect you.

We intend to renew any future registered copyrights when the registration expires.

#### **ITEM 15**

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

A franchisee has responsibility for the operation of its Franchised Business. At least one person who is a guarantor under the Franchise Agreement or has a significant equity ownership position in the franchisee (at least 20.00%) must be designated the Owner-Operator of the franchisee and attend the initial training program. The Owner-Operator must dedicate his or her full working time and attention to the Franchised Business. You may hire an “on-premises” manager to handle the day-to-day operations of your Franchised Business, but any such manager must have completed the initial training program. Your on-premises manager must sign a written agreement at the time of employment to maintain the confidentiality of the trade secrets and other proprietary information contained in Item 14. The form is included in the Franchise Agreement as an Attachment and a copy of the fully executed agreement must be sent to us promptly after signing, and before we begin training for this manager.

If you operate as a corporation, partnership or other form of business entity, each of your owners must guarantee your obligations and agree to a restriction on the transfer of their equity ownership interests under the Guaranty and Restriction Agreement attached as an Attachment to the Franchise Agreement. We may require employees of yours who have received or will have access to our Manual or confidential information to sign a non-disclosure agreement.

#### **ITEM 16**

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

You must operate your Franchised Business under the System as specified in the Franchise Agreement, the Operations Manual, and in our standards and policies. You may not engage in any

business or offer any other services or products at your Franchised Business that is or are not a part of the System or without our express authorization in advance. You must offer our entire menu except those items we designate as optional. You may not offer additional menu items without our prior written consent. We retain the right to modify the Operations Manual to modify, discontinue or add to the goods and services that you must sell in your Franchised Business, which may include new or modified menu items and recipes, methods of preparation or serving, and the installation and use of new or modified food preparation and serving equipment. There are no limits on our right to make these changes.

All advertising and promotional materials, signs, decorations, paper goods (including menus and all forms and stationery used in the Franchised Business) and other items we designate must bear the Marks in the form, color, location and manner we prescribe. In addition, all advertising and promotion in any medium, (including websites, Internet postings or markings) must be conducted in a dignified manner and must conform to the standards and requirements in the Operations Manual, the Franchise Agreement or otherwise. You must obtain our approval before you use any advertising and promotional materials and plans. You must obtain our written approval of the content and design of your website or Internet posting or marketing in advance of such use and such use must be in compliance with our policies including the use and presentation of the Marks.

We have the right to establish a Program Customer survey feedback program, and any similar programs that we elect, in our sole discretion, to implement. We may use the scores and comments from such program to evaluate whether or not you meet System Standards, are eligible for additional franchises or area development agreements, or comply with your Franchise Agreement. As of the Issuance Date, we have not established a guest survey feedback program.

**ITEM 17**

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

**THE FRANCHISE RELATIONSHIP**

**Franchise Agreement**

**This table lists certain important provisions of the Franchise Agreement. You should read these provisions in that agreement attached as Exhibit A to this Disclosure Document.**

	<b><u>Provision</u></b>	<b><u>Section in Franchise Agreement</u></b>	<b><u>Summary</u></b>
a.	Length of the franchise term	2.01	The Franchise Agreement runs for a term of 7 years from its effective date unless terminated earlier under the Franchise Agreement.

	<u>Provision</u>	<u>Section in Franchise Agreement</u>	<u>Summary</u>
b.	Renewal or extension of the term	2.05	You may renew the franchise for a one seven-year renewal term. You may not renew without our consent if (i) you or any of your Affiliates are in default under any Franchise Agreement with us, (ii) any monetary obligations to us or our Affiliates, or trade creditors of the Franchised Business are unsatisfied, (iii) you have met your Sales Targets during the Term and your Market Index score for the Franchised Business for the fiscal year preceding the date of the renewal notice must place you in the top half of all franchisees, excluding those in their first year of operation of their Franchised Business. As of the Effective Date, we plan to use a Market Index metric of “Cash Growth,” which is the change in Gross Sales per capita in the Territory over a 52-week period, indexed by the average of the four 52 week periods preceding the date of calculation. We will notify you if you choose to renew and you do not meet these conditions. We may change our performance metric from Cash Growth in the Operations Manual.
c.	Requirements for franchisee to renew or extend	2.05	You may renew the franchise for one additional “Renewal Term” of 7 years, subject to satisfaction of the following conditions for renewal: You must give us at least 180 days but not more than one year’s advance notice of renewal, sign our then current form of the Franchise Agreement and ancillary agreements (which may contain materially different terms and conditions from the original contract, including higher fees), execute a general release of claims, complete any retraining program we may require, and pay a renewal fee of 50.00% of the then current Initial Franchise Fee. You must also agree to renovate, replace, reequip and update the Premises, including the commercial freezer, and update or replace your Delivery Vehicles, to our current entry standards. All Guarantors must sign our current form of Guaranty and Restriction Agreement.
d.	Termination by franchisee	11.02	You have no express termination rights. You may have common law termination rights if we default materially under the Franchise Agreement and fail to cure the default.

	<u>Provision</u>	<u>Section in Franchise Agreement</u>	<u>Summary</u>
e.	Termination by franchisor for commercial impracticability	11.03	We may terminate your Franchise agreement after written notice to you if we determine that either (i) a law or regulation is enacted, promulgated, repealed, modified or amended, (ii) a judicial or administrative tribunal or administrative agency has issued, published or released a decision, ruling or opinion in a matter not involving the Parties directly or indirectly that we reasonably expect will affect applicable law or its interpretation, or (iii) an administrative agency, arbitrator or judge has issued an interim or final decision in a matter in which the Parties are involved directly or indirectly, which (A) frustrates or adversely affects or could reasonably be expected to affect adversely the purposes of the Franchise Agreement, (B) makes performance of the Franchise Agreement commercially impracticable, (C) effectively modifies the allocation of risk, benefits and burdens agreed by the Parties, (D) deprives any Party of its benefits of the bargain struck by the Parties, as originally set forth in the Franchise Agreement, or (E) determines that an employment or a joint employment relationship exists between the franchisor and the franchisee, or between the franchisor and the franchisee's employees.
f.	Termination by franchisor upon event of default	11.01	We may terminate your Franchise Agreement after written notice of a curable default if you fail to cure within the time permitted or such longer period as required by law, or immediately upon written notice of an incurable default unless a longer notice period is required by law.

	<u>Provision</u>	<u>Section in Franchise Agreement</u>	<u>Summary</u>
g.	“Cause” defined - curable defaults	11.01	A curable default consists of (1) if you fail to pay when due any amount owing to us, our Affiliates or any supplier to the Franchised Business, whether under the Franchise Agreement or otherwise, and such default continues for a period of fifteen (15) days; (2) if you fail to observe or perform any of your other obligations in the Franchise Agreement or in any other agreement or undertaking entered into or made in favor of us or any of our Affiliates, and such default is not remedied within fifteen (15) days of receipt of notice from us; (3) if Franchisee fails to furnish reports, financial statements, tax returns, or any other documentation required by this Agreement at the time specified therefore and such breach is not remedied within fifteen (15) days of receipt of notice from Franchisor to remedy such breach; (4) if you fail to observe or perform any of the rules, bulletins, directives or other notices set forth in the Manual and any such failure to observe or perform is not remedied within fifteen (15) days of receipt of notice from us; (5) you operate the Franchised Business in a manner that presents a health hazard to its Program Customers, employees or to the public and such manner of operation continues uncorrected after Notice from Franchisor; (6) you engage in any conduct or practice which, in our sole discretion, reflects unfavorably upon or is detrimental to the Marks, to the good name, goodwill or reputation of us or to the business reputation or goodwill of System franchisees or the System generally and Franchisee fails to cease such conduct or practice within five (5) days from receipt of notice thereof from us;. These cure or notice periods may be extended by applicable law in your state.
h.	“Cause” defined - non-curable defaults	11.01	An incurable default will occur if (1) you fail in any year during the Term to meet the Sales Target; (2) you lose the right to possession of the Premises or the Lease is terminated as a result of your default of Franchisee; (3) the Guarantor designated as Owner-Operator of the Franchised Business fails to satisfactorily complete all required training for the operation of the Franchised Business; (4) you or any Guarantor purports to transfer any property without fully complying with the requirements of Section 10.02 of the Franchise Agreement; (5) you maintain false books or records, including tax records; (6) you have received from us during any consecutive twelve (12) month period, three (3) or more notices relating



	<u>Provision</u>	<u>Section in Franchise Agreement</u>	<u>Summary</u>
			<p>to a default hereunder (whether such notices relate to the same or different defaults and whether or not such defaults have been remedied by you); (7) you or any Guarantors (i) request the appointment of a receiver or have a receiver appointed for the Franchised Business, you or any of your or their assets; (ii) become insolvent or make a general assignment for the benefit of your or their creditors; (iii) commit an act of bankruptcy, become insolvent or make a proposal to its creditors or commence a case for relief or have an order for relief entered for it or them under the within the meaning of the United States Bankruptcy Code (or any successor legislation thereto); (iv) if a petition in bankruptcy is filed against you and is not discharged or disputed bona fide within three (3) days of such filing or (v) if a receiver or other custodian (permanent or temporary) of the Franchised Business or any part thereof is appointed by private instrument or by court order; or (vi) if an execution or similar process is levied against any of your assets, or if distress or other analogous process is made against any of your assets or any steps are taken to wind up or dissolve your entity; (8) you cease or threaten to cease or take any steps to cease the operation of the Franchised Business; or (9) you close or abandon the Franchised Business for a period of three (3) or more days in any seven (7) day period except for any remodeling or vacation we approve in advance; or (10) you or any of the Guarantors suffer a conviction for, or plead guilty or nolo contendere to a crime involving moral turpitude or any other offense reasonably likely, in the sole discretion of Franchisor, reflects unfavorably upon or is detrimental to the Marks, to the good name, goodwill or reputation of Franchisor or to the business reputation or goodwill of its franchisees or the System generally in Franchisor's opinion; or (11) we discover a material inaccuracy in any of your representations in the Franchise Agreement or in any application submitted to us to become a franchisee; or (12) you commits a breach of the Franchise Agreement which, by its nature, cannot be cured or with regard to which you notify us that you do not intend to cure. Or (13) you fails to (i) gain our acceptance of the proposed Premises, (ii) sign a lease or a purchase agreement we approve as to form for the accepted Premises within the time frame specified in the Franchise Agreement, or (iii) complete and open the Franchised Business within timeframe specified in the Franchise</p>

	<u>Provision</u>	<u>Section in Franchise Agreement</u>	<u>Summary</u>
			Agreement.
i.	Franchisee's obligations on termination/non-renewal	11.04	You must (1) abide by the non-competition provisions of the Franchise Agreement; (2) promptly pay us and our affiliates all amounts owed; (3) not use or adopt the Franchised Business system or any of our proprietary marks or intellectual property; (4) remove from the Program Meals Business all signs, emblems and displays identifying it as associated with the Franchised Business system; (5) cease to use and return to us the Operations Manual and other confidential materials delivered to you; (6) cease to hold yourself out in any way as our franchisee or to do anything which would indicate any relationship between you and us; (7) change the exterior and interior design and décor of the Franchised Service Location and make all changes in signs, buildings and structures which we direct to distinguish the building from its former appearance as a Franchised Business; and (8) transfer to us all telephone listings, domain names, and web pages for your Franchised Business or which contain, use or display any of our proprietary marks or intellectual property. You must identify and deliver to us all customer records and data, and you may not tamper with, remove, download, transfer or use for any purpose any customer data from any of our proprietary or designated recordkeeping system.
j.	Assignment of contract by franchisor	10.01	We may transfer, assign or pledge our interest in the Franchise Agreement, in whole or in part, to any person.

	<u>Provision</u>	<u>Section in Franchise Agreement</u>	<u>Summary</u>
k.	“Transfer” by franchisee-defined	10.02(a)	Any transaction that is or results in (i) an assignment of the Franchise Agreement or delegation of any of your rights and obligations under the Franchise Agreement, (ii) grant of a security interest in, pledge of, lien or encumbrance on the Franchise Agreement, (iii) a change in ownership of an equity interest, or any issuance of additional equity interests to new persons or entities not listed on Attachment A to the Franchise Agreement, or any transaction among your existing equity owners that results in a change in control over your equity interests; (iv) any merger, consolidation or sale of substantially all assets, if you are an entity, (v) any sale or lease of the Franchised Program Meals Business, or a sale of the Location if you own it, or any eviction, detainer, foreclosure or deed in lieu of foreclosure that results in the loss of possession of and control over the Franchised Program Meals Business, (vi) any delegation of management rights or responsibilities of the Franchised Business, or (vii) any distribution, gift or donation of any interest in the Franchised Program Meals Business will constitute a “transfer” of your Franchise Agreement or you.
l.	Franchisor approval of transfer by franchisee	10.02(b)	You generally may not transfer any interest in your Franchise Agreement or an equity interest in the franchisee entity without our consent.

	<u>Provision</u>	<u>Section in Franchise Agreement</u>	<u>Summary</u>
m.	Conditions for franchisor approval of transfer	10.02(d)	We must consider and accept the transferee's qualifications, apparent ability and credit standing and these conditions must be satisfied: (i) there shall be no existing default in the performance or observance of any of your obligations under this or any other agreement between you and us or our Affiliates or with any supplier of the Franchised Business; (ii) you shall have satisfied all monetary obligations then due and owing and settled all outstanding accounts with us, our Affiliates and all trade creditors of the Franchised Business; (iii) you and each of your Guarantors shall have delivered to us a general release of their claims against us, our Affiliates and their respective equity owners, directors, and officers, in form prescribed by us which release shall exclude therefrom any rights under or claims that you and the Guarantors may have under applicable franchise law; (iv) the proposed transferee and its Owners (1) must satisfy all the requirements and conditions then being used to qualify as a new franchisee; (2) must comply with Section 10.08 of the Franchise Agreement regarding its organizational documents; (3) execute and deliver a written assignment, assuming and agreeing to discharge all of your obligations under the Franchise Agreement or, at our option, shall enter into our then-current form of franchise agreement and all other agreements then being required by us in the grant of franchises; (v) the proposed transferee and its Owners shall have agreed to complete forthwith following completion of the Transfer, all such maintenance, replacement, refurbishing, renovating and remodeling of the Premises and the Equipment and Furnishings as Franchisor reasonably requires to satisfy the System Standards then in effect for new entrant franchisees; (vi) if required by us, the proposed transferee shall have paid to us the then-current cost of providing training and shall have satisfactorily completed our training program then in effect for all new entrant franchisees; and (vii) you shall have paid to us a transfer fee in an amount equal to 50% of the then-current initial franchise fee charged generally by us for new franchises.
n.	Franchisor's right of first refusal to acquire franchisee's business	10.04	We have a right of first refusal to purchase your Franchised Business or any controlling interest in you that you propose to sell on the same terms and conditions offered to you by a third party.

	<u>Provision</u>	<u>Section in Franchise Agreement</u>	<u>Summary</u>
o.	Franchisor's option to purchase franchisee's business	11.05	For a period of 30 days following the termination or expiration of the Franchise Agreement, we shall have the option, exercisable by Notice to that effect to you, to purchase all Equipment and Furnishings, leasehold improvements, inventory and supplies owned and used by you in connection with the operation of the Franchised Business at a price equal to the lesser of the book value and the fair market value of the property in question. Such purchase price shall not, however, contain any factor or increment for goodwill or other intangibles and we may exclude from the assets purchased hereunder any Equipment and Furnishings, leasehold improvements, inventory and supplies which, in our opinion, are obsolete, damaged or otherwise not in marketable or usable condition. If the parties cannot agree upon the fair market value of such assets within 10 business days following the exercise of the option by us, an independent appraiser shall be designated by us and its determination of the fair market value shall be binding on you and us and no appeal shall lie therefrom. If we elect to exercise its option to purchase, we shall be entitled to set off against the purchase price all amounts owing by you to us or any of our Affiliates under the Franchise or any other agreement and the cost of any appraisal. If we exercise the option to purchase, the transaction of purchase and sale shall be closed on a date to be determined by us and shall be completed in accordance with all applicable law to avoid claims of your creditors. Franchisee shall deliver against payment of the purchase price a bill of sale with the usual covenants as to title, together with such other documents as may be necessary or desirable, in the reasonable opinion of Franchisor, to complete the transaction of purchase and sale.

	<u>Provision</u>	<u>Section in Franchise Agreement</u>	<u>Summary</u>
p.	Death or disability of franchisee	10.05	<p>(a) In the event of your death or permanent disability, if the Franchisee is an individual, or a Guarantor, or the appointment of a permanent guardian or conservator to manage the Franchisee's or the Guarantor's affairs, except the last Guarantor to die or become permanently disabled (the "Disabled Party"), the trustee, conservator, guardian, personal representative, or executor of the estate shall within 90 days of the occurrence of such death or permanent disability sell to the surviving Guarantors all of the Disabled Party's equity interests in the Franchisee entity, for such price and upon such other terms and conditions as may be agreed upon by the parties. You will notify us in writing of any change in the information stated on Schedule B before or within 10 days after such events.</p> <p>(b) If the Disabled Party was the Owner-Operator, then we may treat the personal representative, trustee or conservator as the Owner-Operator until the Franchisee entity appoints someone else as Owner-Operator.</p> <p>(c) In the event of the death or permanent disability of the last of the Guarantors to die or become so disabled, or where there is only one Guarantor, then upon the Guarantor's death or permanent disability, the representative of the person shall, within 90 days of the occurrence of such death or disability, Transfer all of its right, title and interest in and to the Franchise Agreement, the Lease and the property and assets used in the Franchised Business, or the Owner's equity interests, to another person acceptable to Franchisor. Such Transfer shall comply with Section 10.02 of the Franchise Agreement.</p> <p>(d) Any failure to commence administration of the decedent's estate within 90 days after death or any distribution of the decedent's equity interest in the Franchisee entity without our consent if such distribution operates as a Transfer and our consent is required is a material breach of the Franchise Agreement.</p> <p>(e) If the Transfer of the Franchised Business to a person acceptable to us has not taken place within 90 days, we shall thereafter have the continuing option, exercisable upon 10 days' Notice to the Disabled Party or the Disabled Person's estate, of terminating the Franchise Agreement for breach.</p>

	<u>Provision</u>	<u>Section in Franchise Agreement</u>	<u>Summary</u>
q.	Non-competition covenants during the term of the franchise	12.02	You may not engage, either directly or indirectly through any financial or beneficial interest in any other person, in any competing business, other than a Franchised Business. A competing business means any person or entity engaged in the delivery of frozen, chilled or ambient temperature prepared meals for in-home consumption.
r.	Non-competition covenants after the franchise is terminated or expires	12.03	You and your Guarantors shall not (without our prior written consent) at any time during the period of 2 years from the date of Franchise Agreement termination or expiration, either individually or in partnership or jointly or in conjunction with any person, as principal, agent, equity owner or in any other manner or capacity whatsoever, carry on, be engaged in, be concerned with or interested in or advise, lend money to, guarantee the debts or obligations of, or permit its name or any part thereof to be used or employed by any person engaged in or concerned with or interested in the development, operation, franchising or management of any business involving the preparation or home delivery of frozen prepared meals within the Territory or within the territory of any other Heart to Home Meals Business at the termination date of the Franchise Agreement.
s.	Modification of the agreement	16.05	We may alter the System or Operations Manual as we deem necessary. We and you must agree in writing to any modifications to your Franchise Agreement.
t.	Integration/merger clause	16.05	Only the terms of the Franchise Agreement are binding (subject to applicable state law). Any representations or promises outside of this Disclosure Document and the Franchise Agreement may not be enforceable.
u.	Dispute resolution by arbitration or mediation	Not Applicable	Not applicable.
v.	Choice of forum	16.03	Any legal action must be brought in the judicial district where our headquarters is located, which is currently Middlesex County, Massachusetts, and the United States District Court for the District of Massachusetts. Your local law may supersede this provision. See Disclosure Document Addenda for Certain States at <u>Exhibit B</u> .
w.	Choice of law	16.03	Delaware and applicable federal law will apply to your Franchise Agreement and all rights and duties under the Franchise Agreement (subject to applicable state law). See the Disclosure Document Addenda for Certain States at <u>Exhibit B</u> .

## **ITEM 18**

### **PUBLIC FIGURES**

We do not use any public figure to promote our franchise.

## **ITEM 19**

### **FINANCIAL PERFORMANCE REPRESENTATIONS**

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

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised Program Meals Businesses. 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 Program Meals Business, however, we may provide you with the actual records of that Program Meals Business. If you receive any other financial performance information or projections of your future income, you should report it to our management by contacting Christopher Webb at 289 Elm Street, Suite 102, Marlborough, Massachusetts 01752, the Federal Trade Commission, and the appropriate state regulatory agencies. A written substantiation for the financial performance representation will be made available to the prospective franchisee upon reasonable request.

## **ITEM 20**

### **OUTLETS AND FRANCHISEE INFORMATION**

**Table No. 1**  
**Systemwide Outlet Summary for Years 2020-2022**

<b>Outlet Type</b>	<b>Year</b>	<b>Program Meals Businesses at the Start of the Year</b>	<b>Program Meals Businesses at the End of the Year</b>	<b>Net Change</b>
<b>Franchisee</b>	2020	0	0	0
	2021	0	0	0
	2022	0	0	0
<b>Company-Owned</b>	2020	1	0	0
	2021	1	0	0
	2022	1	0	0
<b>Total</b>	2020	1	0	0
	2021	1	0	0
	2022	1	0	0



**Table No. 2**  
**Transfers of Program Meals Businesses from Franchisees to New Owners**  
**(other than the Franchisor)**  
**For Years 2020-2022**

Column 1 State	Column 2 Year	Column 3 Number of Transfers
	2020	0
	2021	0
	2022	0
<b>TOTAL</b>	2020	0
	2021	0
	2022	0

**Table No. 3**  
**Status of Franchises**  
**For Years 2020-2022**

Col. 1 State	Col. 2 Year	Col. 3 Franchises at Start of Year	Col. 4 Franchises Opened	Col. 5 Terminations	Col. 6 Non-Renewals	Col. 7 Reacquired by Franchisor	Col. 8 Ceased Operations- Other Reasons	Col. 9 Franchises at End of the Year
<b>TOTAL</b>	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1

**Table No. 4**  
**Status of Company-Owned Program Meals Businesses**  
**For Years 2020-2022**

Col. 1 State	Col. 2 Year	Col. 3 Program Meals Businesses at Start of the Year	Col. 4 Program Meals Businesses Opened	Col. 5 Program Meals Businesses Reacquired from Franchisee	Col. 6 Program Meals Businesses Closed	Col. 7 Program Meals Businesses Sold to Franchisee	Col. 8 Program Meals Businesses at End of the Year
<b>TOTAL</b>	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0

**Table No. 5**  
**Projected Openings as of December 31, 2022**

<b>Column 1 State</b>	<b>Column 2 Franchise Agreements Signed But Franchised Business Not Opened</b>	<b>Column 3 Projected New Franchised Business in the Next Fiscal Year</b>	<b>Column 4 Projected New Company-Owned Program Meals Business Locations in the Next Fiscal Year</b>
Connecticut	0	0	0
Delaware	0	0	0
District of Columbia	0	0	0
Illinois	0	0	0
Indiana	0	0	0
Kentucky	0	0	0
Maine	0	0	0
Maryland	0	0	0
Massachusetts	1	0	0
Michigan	0	0	0
New Hampshire	0	0	0
New Jersey	0	0	0
New York	0	0	0
North Carolina	0	0	2
Ohio	0	0	0
Pennsylvania	0	0	0
Rhode Island	0	0	0
South Carolina	0	0	0
Tennessee	0	0	0
Vermont	0	0	0
Virginia	0	0	0
West Virginia	0	0	0
<b>TOTAL</b>	<b>1</b>	<b>0</b>	<b>0</b>

During the year preceding the date of this Disclosure Document, no Franchise Agreements were terminated. We did not cancel or fail to renew any Franchised Business, and no such Franchised Business ceased to do business voluntarily. No franchisee has failed to communicate with us during the 10 weeks prior to the date of this Disclosure Document.

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the System.

**Confidentiality Clauses**

As a standard practice, when we enter into settlement agreements with a franchisee or former franchisee, we will require them to agree to maintain as confidential all information that the franchisee or former franchisee has about us. We have not entered into any such agreements in the last three fiscal years. In some instances, current and former franchisees may sign provisions restricting their ability to

Speak openly about their experience with the System. You may wish to speak with current and former franchisees but be aware that not all of these franchisees will be able to communicate with you.

### **Franchisor Sponsored and Independent Trademark Specific Franchisee Organizations**

We have not created, sponsored or endorsed any trademark-specific franchisee organization, and no independent franchisee organization is incorporated or otherwise organized under state law and asks us to be included in our Disclosure Document.

## **ITEM 21**

### **FINANCIAL STATEMENTS**

We have included our audited financial statements balance sheet for the periods ended December 31, 2022, 2021, and 2020, and HTHM Supply's and our unaudited year to date balance sheet for the period ending on December 31, 2023, as Exhibit C of this Disclosure Document. Our fiscal year end is December 31.

## **ITEM 22**

### **CONTRACTS**

We have included copies of our Franchise Agreement, including forms of Lease Rider, Automated Clearing House Payment, Guaranty, Management Confidentiality and Non-Competition Agreement, and Franchise Agreement Addenda Required by Certain States as Exhibit A to this Disclosure Document. Our forms of Closing Acknowledgment and General Release are included as Exhibits G and H. The Closing Acknowledgment is used for all new franchisees. The General Release is used for all transfers and renewals. The Confidentiality and Deposit Agreement is included as Exhibit I and is used if you would like to review any of our confidential materials before you sign a Franchise Agreement.

## **ITEM 23**

### **RECEIPT**

Duplicate copies of the receipt appear after the exhibits as the last two pages of this Disclosure Document.

**Exhibit A**  
**Franchise Agreement**



**FRANCHISE AGREEMENT among  
HTHM FRANCHISING, LLC**

**- and -**

**[name(s)]  
(the “Franchisee”)**

**- and -**

**[name(s)]  
(the “Guarantor[s]”)**

**Territory:**

---

**Franchise No.**

\_\_\_\_\_

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## FRANCHISE AGREEMENT

**THIS FRANCHISE AGREEMENT (“Agreement”)** is made effective as of \_\_\_\_\_, 2023 (the “**Effective Date**”) by and among HTHM Franchising, LLC, a Delaware limited liability company with its principal business address at 289 Elm Street, Suite 102, Marlborough, Massachusetts 01752 (the “**Franchisor**”) and \_\_\_\_\_, a [state] [limited liability company/corporation] with its principal business address at \_\_\_\_\_ (the “**Franchisee**”), \_\_\_\_\_, an individual and \_\_\_\_\_, an individual (each individually, a “**Guarantor**” and [together/collectively], the “**Guarantors**”).

**Recitals.** Franchisor has developed a business format system (the “**System**”) for the operation of a business providing a program to sell and deliver frozen prepared meals identified to the public under the trade name and style “Heart to Home Meals” (“**Program Meals**”), to home bound individuals and institutions, particularly persons over 70 years old (“**Program Customers**”). Food International Holdings LLC (“**FIH**”), an Affiliate of Franchisor, is the owner of certain Marks (as that term is defined below) and has granted to Franchisor the exclusive right and license to use and to grant others the right to use the Marks as part of the System, to brand the Program Meals. HTHM Supply LLC, a Delaware limited liability company (“**HTHM Supply**”), an Affiliate of Franchisor is the designated supplier of Program Meals for Heart to Home Meals franchisees in the United States. The System specifies operation of each franchised business according to a uniform business format and standardized equipment, methods and designs. Franchisee has applied to Franchisor for a franchise to operate a business offering, selling and delivering Heart to Home Meals under this Agreement. Franchisor has relied on the information supplied by Franchisee to approve that application and offer to enter into this Agreement.

**NOW THEREFORE** in consideration of the mutual undertakings and commitments set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which the parties mutually acknowledge, the parties covenant and agree with each other as follows:

### ARTICLE I DEFINITIONS

**Section 1.01 Definitions.** In this Agreement the following terms shall have the following meanings:

(a) “**Affiliate**” means any person directly or indirectly owned or controlled by, under common control with, or owning or controlling, Franchisor or Franchisee (as applicable). For purposes of this definition, “control” of a person means ownership or control of a majority of the voting ownership of the person or any combination of voting ownership and/or one or more agreements that together afford control of the management and policies of such person.

(b) “**Applicable Taxes**” means taxes imposed by governmental authority on the sale of good or services in the jurisdiction in which the Franchised Business is located.

(c) **“Computer System”** means the computer hardware, dedicated telephone and power lines, modems, other computer-related accessories and peripheral equipment, software, and related technology that Franchisor periodically specifies in accordance with this Agreement.

(d) **“Control”** means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(e) **“DMA”** means a designated market area.

(f) **“Delivery Vehicle”** means a vehicle meeting System Standards operated by Franchisee to transport, store or deliver Program Meals.

(g) **“Equipment and Furnishings”** means collectively, all equipment, furnishings, Delivery Vehicles, signage and computer hardware designated from time to time by Franchisor for use in the operation of a Heart to Home Meals Business including without limitation a commercial-grade freezer and freezer-equipped Delivery Vehicle.

(h) **“Franchised Business”** means the Heart to Home Meals Business to be operated by Franchisee covering the Territory from and at the Premises under this Agreement in which Program Meals are marketed, sold and delivered to Program Customers.

(i) **“Gross Sales”** means the aggregate of all revenue from operating the Franchised Business, whether payment is received in cash or by credit card, gift cards or other generally accepted form of payment, from the sale of Program Meals, appliances, services, merchandise or other goods and services. Without limiting the scope of the term, Gross Sales shall include without limitation: (a) revenue received from employees for Program Meals or services furnished to employees at a discount; (b) the value of Program Meals and services bought by Program Customers by redeeming any Heart to Home Meals authorized gift cards; and (c) the proceeds from any business interruption insurance. Gross Sales are reduced by the amount of any discount given to Program Customers, employees, family members or other businesses owned or controlled by Franchisee if taken at the point of sale system at the time of sale so that the purchaser pays an amount net of the discount.

There shall be no deductions allowed for uncollected or uncollectible credit accounts and no allowances shall be made for bad debts. Each charge or sale upon instalment or credit shall be treated as a sale for the full price in the week during which such charge or sale is made, regardless of when Franchisee shall receive payment therefore. Gross Sales shall not include: (i) sales taxes and other taxes separately stated, if any, collected from Program Customers and paid to taxing authorities; (ii) gratuities received from the Franchised Business Program Customers and paid over to the Franchised Business employees; (iii) refunds and credits made in good faith to arms' length Program Customers; (iv) the amount of any checks dishonored or returned; (v) proceeds from the sale of any Heart to Home Meals authorized gift cards to Program Customers; (vi) proceeds from insurance with respect to Franchisee's insured losses from property damage or liability; (vii) proceeds from any civil forfeiture, condemnation, or seizure by a Regulatory Authority; and (viii) credits, allowances, adjustments or uncollectible amounts, subject to the limitation that uncollectible amounts cannot exceed 0.5% of Gross Sales for any fiscal year of Franchisee.

Subsequent collections of charged off amounts must be included in Gross Sales when they are collected.

(j) **“Heart to Home Meals Business”** means the business of providing delivery of frozen prepared meals in accordance with the System and the terms of this Agreement.

(k) **“Laws”** means all laws, regulations, directives, assessments or other requirements imposed by statute, regulation, rule, by-law, decree, code, policy, order, approval or notice of any Regulatory Authority including without limitation all Laws pertaining to food service and handling and health and safety and Payment Card Industry Data Security Standard.

(l) **“Lease”** means the lease for the Premises as more particularly described in **Error! Reference source not found.** hereof.

(m) **“Manual”** means, collectively, all books, pamphlets, memoranda, other publications and other written communications prepared by or on behalf of Franchisor for use by franchisees generally or for Franchisee in particular, setting forth information, advice, instructions or policies relating to the System and the operation of a Heart to Home Meals Business, as such may be amended from time to time.

(n) **“Market Index”** means the metric of market share attained or performance by Franchisee specified by Franchisor in the Manual as a key performance indicator for comparative performance by all System franchisees.

(o) **“Marks”** means the trademarks, trade names and other commercial symbols, graphics and related logos as FIH may own and which are licensed to Franchisor for its use and its franchisee’s use in connection with the System, including but not limited to those Marks listed in Schedule D attached hereto.

(p) **“Notice”** has the meaning given thereto in Section 14.08 hereof.

(q) **“Owner”** means any person (any individual or business entity, including (without limitation) corporation, joint venture, general partnership, limited partnership, limited liability company, or trust) that holds a direct or indirect equity ownership interest (including beneficial and record interests) in Franchisee.

(r) **“Premises”** means the premises from which the Franchised Business is to be operated, as described in Part 1 of Schedule B attached hereto, the parties acknowledging that Part 1 of Schedule B shall be deemed to be completed upon determination of the location of the Franchised Business in accordance with Section 3.01 hereof.

(s) **“Prime Bank Rate”** means the commercial lending rate of interest published in The Wall Street Journal or another publication Franchisor, in its sole discretion, deems reliable (commonly known as “prime”) for the purposes of determining the rate of interest that it charges to its commercial customers for loans in United States dollars.

(t) **“Program Customers”** means the individuals, institutions and providers of meals located within the Territory to whom Franchisee sells Program Meals.

(u) “**Program Meals**” means frozen prepared meals prepared by HTHM Supply or another source authorized and designated by Franchisor, offered for sale from the Franchised Business to consumers for home consumption.

(v) “**Regulatory Authority**” means any federal, state, municipal or local government regulatory or administrative authority, agency, commission, or board having jurisdiction in the relevant circumstances.

(w) “**Reporting Period**” means each calendar month for each fiscal year. Each fiscal year ends on December 31.

(x) “**Sales Target**” means the target for Gross Sales to be achieved by the Franchised Business for each year of the Term as set out in Schedule A attached hereto.

(y) “**System Standards**” means the standards for developing, equipping, managing and operating the Franchised Business using the System published in the Manual and elsewhere, including but not limited to standards for design, fixtures and equipment, use and display of the Marks, graphics, marketing, advertising, sales, training, accounting, operations, technology and any other standards, policies, rules and procedures Franchisor promulgates about System implementation, operation and usage.

(z) “**Territory**” means the geographical area described in Part 2 of Schedule B attached hereto, which geographical area shall be established following determination of the Premises.

## ARTICLE II GRANT OF FRANCHISE

**Section 2.01 Grant and Term.** Subject to the terms and conditions of this Agreement, Franchisor hereby grants to Franchisee the right, license, and privilege to operate one (1) a Heart to Home Meals Business as a Franchised Business only at the Premises, and the right, license, and privilege to use the System and the Marks in its operation, in the Territory during the Term. This grant authorizes Franchisee to operate only a delivery model business. The offer, sale and distribution of Program Meals from a retail store, mobile facility or kiosk, or any other means of direct sale to customers, except by means of the authorized delivery model, is expressly prohibited.

The right and license herein granted shall be for a term (the “**Term**”) commencing on the Effective Date and expiring seven (7) years from its effective date unless sooner terminated. Termination or expiration of this Agreement shall constitute a termination of the right and license granted herein to use the System and operate the Franchised Business. References to the Term shall mean and refer to the initial Term and if renewal occurs as provided below, to the entire period of the initial Term and the Renewal Term.

**Section 2.02 Territory & Sales Target.** Subject to the provisions of Section 2.03 hereof, so long as Franchisee is in full compliance with this Agreement, Franchisor agrees that it will not establish, or grant a franchise for the establishment of, a Heart to Home Meals Business within the Territory. Franchisee agrees to, at all times, use its reasonable best efforts to develop and extend the market for Heart to Home Meals throughout the Territory.

Notwithstanding the foregoing, Franchisee's rights within the Territory shall be subject to compliance by Franchisee with the Sales Target. If Franchisee fails to achieve the Sales Target for any year, Franchisor shall have the right and option, without waiving its right to terminate the Franchise Agreement pursuant to Section 11.02 hereof, to modify the boundaries or reduce the size of the Territory at any time during the 120 days following the end of the period when the Sales Target has been missed. Franchisor will modify Schedule B unilaterally by sending to Franchisee a revised Schedule B that will become effective on the date specified therein or in the notice transmitting the revised Schedule B. Franchisor reserves the right to declare Franchisee ineligible for renewal if the Sales Target is not met for any fiscal year during the Term.

Further and notwithstanding the foregoing, and without waiving Franchisor's right to reduce the size of the Territory, if Franchisee fails to provide the Program Meals to Program Customers in any part of the Territory or fails to provide the Program Meals to a Program Customer within a reasonable time following a Customer's request, Franchisor may grant to others, including Franchisor or its Affiliates, the right to provide the Program Meals in such part of the Territory or to any such Program Customer for such period of time as Franchisor determines, acting reasonably.

**Section 2.03 Reservation of Rights.** Franchisor and its Affiliates reserve all rights not expressly granted to Franchisee. There are no implied covenants or obligations regarding territorial rights arising from this Agreement or any other agreement or arrangement between Franchisor and Franchisee. Franchisee has no right to participate in or benefit from any such other business activity. In addition, Franchisor reserves all rights of ownership, control, modification, revision, updating and termination with regard to the System, the Manual and System Standards. Franchisee's only rights with regard to the System are limited to the license as Franchisor expressly grants the license to Franchisee under this Agreement during the Term, and the parties intend that no implied covenants or rights attach or arise under the license Franchisee accepts in this Agreement.

Furthermore, the restriction contained in Section 2.02 hereof shall not apply to, and Franchisor retains all of the right, in its sole discretion, to:

(a) establish and operate, and grant to others the right to establish and operate, a Heart to Home Meals Business or any other business using the Marks, the System or any variation of the Marks and the System, in any location outside the Territory, on any terms and conditions that Franchisor deems appropriate;

(b) develop, use and license anywhere (including within the Territory) the rights to any trade names, trademarks, commercial symbols, signs, slogans or insignia not designated by Franchisor as Marks, for use with similar or different franchise systems for the sale of similar or different products or services than those constituting a part of the System, without granting Franchisee any rights therein;

(c) except as hereinafter provided, offer, distribute, sell and provide the Program Meals identified by the Marks or by other names trademarks or commercial symbols to Program Customers located in the Territory through any distribution channel including without limitation at retail stores, through the Meals on Wheels program, to non-traditional venues (including long-care homes and hospitals), online by the internet (or any other existing or future

form of electronic commerce) and irrespective of the proximity to the Franchised Business. Notwithstanding the foregoing, all orders for delivery of Program Meals to Program Customers for home consumption received by Franchisor through the internet or other form of electronic commerce shall be referred to the Heart to Home Meals Business franchisee in whose territory the customer is located and such franchisee shall fulfil the order as if such order had been received by Franchisee directly. If there is no Heart to Home Meals Business franchisee in such territory, then Franchisor shall have the right to fill the order directly;

(d) acquire, be acquired by, merge, affiliate with or engage in any transaction with other businesses (whether competitive or not), with outlets, franchises, and operating units located anywhere; and

(e) engage in any other activity, action or undertaking that Franchisor is not expressly prohibited from taking under this Agreement.

**Section 2.04 Designation of the Owner-Operator.** Unless Franchisee operates as a sole proprietorship, the Franchisee must designate one person with at least a twenty percent (20%) ownership interest from among the Guarantors who will be Franchisee's "**Owner-Operator.**" In such capacity, the Owner-Operator shall devote his or her full time and attention to the management, supervision, and operation of the Franchised Business. Franchisor may rely upon communications and decisions of the Owner-Operator as fully authorized by all necessary corporate action and legally binding on Franchisee. Franchisee may designate another Guarantor to serve as Owner-Operator by written notice to Franchisor.

**Section 2.05 Renewal.** Franchisee may renew the franchise for the Franchised Business one time for an additional "**Renewal Term**" of seven (7) years provided that the following conditions are met:

(a) Franchisee provides Franchisor advance written notice of its intent to renew this Agreement at least 180 days, but not more than one year, prior to the expiration of the Initial Term;

(b) Franchisee completes to Franchisor's satisfaction all such maintenance of the Premises and maintenance, improvement, or replacement of the Equipment and Furnishings as Franchisor requires in order to meet the standards and specifications of the System then in effect, which may include replacement of the commercial freezer and the Delivery Vehicles;

(c) Franchisee is not in default of this Agreement or any other agreement with Franchisor or any of its Affiliates as at the expiration of the Term and has substantially complied with all the terms and conditions of such agreements during their respective terms;

(d) Franchisee has satisfied all monetary obligations owed by Franchisee to Franchisor and any of its Affiliates as at the expiration of the Term and shall have throughout the Term, timely met all monetary obligations to Franchisor, its Affiliates and to trade creditors of the Franchised Business;

(e) Franchisee has met its Sales Targets during the Term and Franchisee's Market Index score for its Franchised Business for the fiscal year preceding the date of the renewal



notice must place Franchisee in the top half of all franchisees, excluding those in their first year of operation of their Franchised Business. As of the Effective Date, Franchisor plans to use a Market Index metric of “Cash Growth,” which is the change in Gross Sales per capita in the Territory over a 52 week period, indexed by the average of the four 52 week periods preceding the date of calculation.

(f) Franchisee and the Guarantors execute, at the time of renewal, Franchisor’s then current form of franchise agreement and ancillary agreements, the terms of which may differ from the terms of this Agreement (including, without limitation, Territory definition, territorial rights and fees), which, when executed, will supersede in all respects this Agreement.

(g) Franchisee must pay to Franchisor a renewal fee in an amount equal to fifty percent (50%) of the initial franchise fee then being charged generally by Franchisor for the grant of a franchise. The renewal fee is not refundable;

(h) Subject to prohibitions under local law, Franchisee and each of the Guarantors execute and deliver to Franchisor a complete release of all claims against Franchisor, its Affiliates and their respective shareholders, directors, and officers, in form prescribed by Franchisor; and

(i) Franchisee must have the right to remain in possession of the Premises (or at Franchisor’s request, secure another premises acceptable to Franchisor) for such Renewal Term.

#### **Section 2.06 Renewal Considerations.**

(a) Franchisor will notify Franchisee within thirty (30) days after receipt of the renewal notice if it is not eligible to renew. Franchisor may waive, in its sole discretion, any disqualifications for any Franchised Business or franchisee to renew its franchise, or condition renewal on timely satisfaction of the Renewal Work requirement set forth below. No such waiver will provide or confer any right, privilege, precedent or benefit on any other party or person except the affected franchisee.

(b) Franchisor will score each franchise annually according to its Market Index. Any franchise that ranks in the bottom 25% percent of all franchises will not be eligible for renewal.

(c) Any franchise that scores above the 25<sup>th</sup> percentile but less than the 50<sup>th</sup> percentile will be eligible for renewal at Franchisor’s sole discretion if the request for renewal is accompanied by a marketing plan that Franchisor reviews and finds acceptable to increase Gross Sales. In certain markets Franchisor determines with a high potential for Gross Sales, Franchisor may condition renewal on achieving a particular Market Index specified in the Franchise Agreement.

(d) Franchisor may condition renewal on upgrading, updating or replacement (“**Renewal Work**”) of existing Delivery Vehicles, storage facilities, technology and freezers with systems and models then required for entry level franchises, and may extend the Term for a reasonable time period such as 90 or 120 days that Franchisor determines is appropriate to allow for completion of the Renewal Work before the full renewal term becomes effective.

**Section 2.07 System Control and Modification; Improvements.** Franchisee acknowledges Franchisor controls and establishes requirements for all aspects of the System. Franchisee acknowledges that the System must continue to evolve in order to reflect the changing market and to meet new and changing consumer demands and that accordingly, variations and additions to the System may be required from time to time in order to preserve and enhance the public image of the System and to ensure the continuing efficiency of the System generally. Accordingly, Franchisee acknowledges and agrees that Franchisor may, in its discretion, upon Notice, add to, subtract from or otherwise change the System, including, without limitation, the adoption and use of the Marks, new or modified trademarks, standards, products, services, Equipment and Furnishings and new techniques and methodologies in response to changing market conditions. Franchisee agrees to implement, use and display in the operation of the Franchised Business, within a reasonable time following Notice thereof from Franchisor, all such additions, modifications and changes, at its sole cost and expense, as are reasonably required to meet the standards and specifications of the System then in effect. Franchisor may, in its discretion, permit deviations from the System Standards, based on local conditions and its assessment of the circumstances.

All present and future distinguishing characteristics, improvements and additions to or associated with the System by Franchisor, Franchisee or others, including, without limitation, all new and improved recipes and preparation instructions for menu items, ingredients, new menu items and the like, and all present and future service marks, trademarks, copyrights, and service mark and trademark registrations used and to be used as part of the System, and the associated goodwill, shall be Franchisor's property and will inure to its benefit. Franchisee acknowledges that System Standards include non-functional trade dress that is an integral part of the System and covenants that it will not, directly or indirectly through an Affiliate, use the trade dress in any structure that is not the Franchised Business. Franchisee also acknowledges that such intellectual property includes any recipes, ideas, inventions, concepts, instructions, techniques of cooking, preparation, display or service, or other know-how developed, marketed, or licensed as part of the System, whether created by Franchisor, an Affiliate, a predecessor, licensor or by Franchisee with Franchisor's approval as outlined in the Manual. Franchisee grants to Franchisor a non-exclusive, perpetual, royalty-free worldwide license of all recipes, concepts, instructions, ideas, inventions, techniques of cooking, preparation, display or service, or other know-how, advertising materials and trade secrets created by or for Franchisee for use in, by or for the Franchised Business, and Franchisee acknowledges that Franchisor and its Affiliates may incorporate, modify, supplement, sublicense or otherwise commercialize such information as part of the System or in any other manner. At Franchisor's request and expense, Franchisor may require Franchisee to execute and deliver an assignment of the ownership rights to any such intellectual property or such other writing as it may request to transfer ownership to Franchisor, or pursue registration or other legal protection for such intellectual property.

### **ARTICLE III DEVELOPING AND OPENING THE FRANCHISED BUSINESS**

#### **Section 3.01 Location of Franchised Business.**

(a) **Development.** Except as specified in this Agreement and the Manual, Franchisor is not obligated to provide any assistance in locating a site for the Premises, negotiating

the Lease, conforming the Premises to local codes and ordinances, obtaining permits, constructing, remodeling or decorating, hiring and training employees (except for the training Franchisor provides described in Training below), or providing for necessary equipment, signs, fixtures, opening inventory and supplies. Franchisee, and not an Affiliate, must own or lease each Premises used in the operation of the Franchised Business. Franchisee must be able to receive Product deliveries from a tractor trailer at the Premises and to park and load the Delivery Vehicle conveniently. The Premises are typically located in light industrial warehouse space.

(a) **Location Selection; Premises.**

(i) If Franchisee has not selected a site for the Premises that Franchisor accepted when the parties executed this Agreement and identified in Schedule B, Franchisor will provide Franchisee with advice and consultation in the selection of sites for Premises (s) through the use of the forms, criteria and materials available to franchisees.

(ii) Subject to compliance with all applicable municipal laws, Franchisee shall have the right to operate the Franchised Business from the home of a Guarantor provided that Franchisee purchases or leases, and maintains throughout the term of this Agreement, one (1) or more commercial-grade walk-in freezers approved by Franchisor for the storage of Program Meals.

(iii) Franchisor may conduct any investigation of the proposed site it deems appropriate to evaluate the sit to accept or reject the site. Franchisee must submit the site proposal within 15 days after the Effective Date. Franchisor will review the information Franchisee submits for each proposed site for the Premises, conduct any investigation of the proposed site it deems appropriate to evaluate the site, and accept or reject the site within 30 days after the submission of all initial and supplemental information requested regarding a proposed site. If Franchisor accepts the site (the “**Acceptance Date**”), it will provide notice of any remaining conditions to that acceptance. If Franchisor rejects the site, it will provide the reasons for the rejection. Franchisee may submit the site information before executing this Agreement, in which case the Acceptance Date is the Effective Date of this Agreement. The Acceptance Date must occur no later than 90 days after the Effective Date of the Franchise Agreement.

(iv) Franchisee shall enter into a binding agreement to lease or buy such Premises (the “**Lease**”) after the Acceptance Date, which Lease shall be in form and terms acceptable to Franchisor. Franchisor will accept or reject the proposed form of Lease, or if Franchisee intends to purchase the Premises, the purchase agreement, within thirty (30) days after submission by Franchisee. Franchisee must deliver a signed Lease or purchase contract for an approved Premises site within 45 days after the Acceptance Date. The Lease shall contain provisions substantially similar to those set out in Schedule C attached hereto pursuant to which Franchisor is granted an option to take an assignment of the Lease in certain circumstances. Franchisor shall be made a party to the Lease only for the benefit of taking advantage of the provisions set out in Schedule C. Franchisee agrees not to amend or terminate the Lease without Franchisor’s prior written consent. Any attempt to terminate, alter or amend the Lease shall be null and void. Concurrently with execution of the Lease or confirmation that the Franchised Business will be operated from a home office, Parts 2 and 3 of Schedule B shall be deemed to be completed. The date Franchisee signs the approved lease or purchase agreement is the

“Commitment Date” and Franchisee must provide Franchisor with a copy of the signed document within five (5) business days after the Commitment Date.

(v) Upon Franchisor’s acceptance of the selected site of the Premises, whether identified and accepted at the signing of this Agreement or afterwards, Franchisee acknowledges that it selected and Franchisor accepted the Premises, and that Franchisor’s acceptance of Franchisee’s selection does not guarantee or warrant that the Premises will be successful or that such selection represents the best site for the Franchised Business from among those available to Franchisee. Franchisee acknowledges that Franchisor may have provided it with advice and consultation in the selection of sites for the Franchised Business through the use of the forms, criteria and materials that Franchisor makes available to franchisees and prospective franchisees. Franchisor may have delivered its written review and evaluation of any proposed sites the Franchisee proposed. Franchisee has had the opportunity to obtain independent advice on the site for the Franchised Business and is not relying on Franchisor’s review and evaluation.

(b) **Plans.** Franchisor will provide Franchisee with its standards and specifications and layouts for the interior build-out, mechanical and electrical systems, Equipment and Furnishings, including the standard for the commercial freezer and Delivery Vehicle, décor and signs for a prototype Franchised Business that it makes available to franchisees. Franchisor will not provide these items directly for the Premises and does not provide assistance with the delivery and installation of these items. Franchisor will review the site plan and final plans and specifications for conformity to System. Franchisor will not unreasonably withhold or delay its approval, which is intended only to test compliance with System, and not to detect errors or omissions in the work of the architects, engineers, contractors or the like. Franchisor’s review does not cover technical, architectural or engineering factors, or compliance with federal, state or local laws, regulations or code requirements. Franchisor will not be liable to Franchisee’s lenders, contractors, employees, Program Customers, others or Franchisee on account of its review or approval of Franchisee’s plans, drawings or specifications, or its inspection of the Franchised Business before, during or after renovation or construction.

(c) **Construction of Franchised Business.** Franchisee will complete the construction or remodeling of the Franchised Business within the time specified on Schedule B. Franchisee will construct or remodel the Franchised Business in strict conformity with the site layout, plans and specifications Franchisor approves. If Franchisor determines (before the Opening Date) that Franchisee has not constructed or remodeled the Franchised Business in strict conformity with the site layout, plans and specifications it approved, within the time set forth on Schedule B, Franchisor may terminate this Agreement for cause, or obtain an injunction from a court of competent jurisdiction against the opening of the Franchised Business and to compel Franchisee to specifically perform its obligation to construct or remodel the Franchised Business in strict conformity with the approved site layout, plans and specifications, in addition to any other remedies available to Franchisor at law or in equity, without any obligation to furnish any bond or security. Franchisee will bear the expense of all engineering and architectural services incurred for its final construction plans and for obtaining approvals by the appropriate Regulatory Authorities required under applicable law to construct, remodel and occupy the Franchised Business. Franchisee shall secure for Franchisor and its agents the right to inspect the Premises, construction site and related materials stored off site at any reasonable time. Franchisee shall correct, upon

Franchisor's request and at Franchisee's expense, any deviation from the approved site plans and specifications.

(d) **Relocation.** Franchisee may operate the Franchised Business only at the Premises and may not relocate except with Franchisor's prior written consent. If, prior to the termination or expiration of this Agreement, the Lease for the Premises expires or terminates through no fault of Franchisee or if the Premises are destroyed or condemned or otherwise rendered unusable or if, in the judgment of Franchisor, there is a change in the character of the location of the Premises sufficiently detrimental to its business potential to warrant the relocation of the Franchised Business, Franchisor will grant its consent to the relocation of the Franchised Business to a location within the Territory acceptable to Franchisor, acting reasonably. Any such relocation shall be at Franchisee's sole cost and expense and Franchisor shall have the right to charge Franchisee for its reasonable costs incurred in connection with such relocation.

**Section 3.02 Use of Premises.** Except in the case of a home office, Franchisee shall use the Premises for the operation of the Franchised Business only and for no other purpose without the prior written consent of Franchisor. Franchisee will not display any other sign or advertising at the Franchised Business, whether on the Premises or the Delivery Vehicle, without Franchisor's consent other than as expressly permitted under the Manual.

**Section 3.03 Development of Premises.** Franchisee shall develop and equip the Premises, at its sole cost and expense, in accordance with Franchisor's standard plans and specifications for a Heart to Home Meals Business and in accordance with all laws and regulations in effect in the jurisdiction in which the Franchised Business is located. Franchisee will install in and about the Franchised Business Equipment and Furnishings, fixtures, and other personal property that strictly conform to System Standards and specifications Franchisor specifies in the Manual or otherwise.

(a) **Commercial Freezer.** If the Premises does not have an indoor commercial walk-in freezer, Franchisee must acquire, whether purchasing or renting, and install the freezer. The freezer is critical to operation of the Franchised Business, and Franchisee must obtain a service contract to maintain the freezer in good working order and repair the freezer within four (4) hours of loss of cooling.

(b) **Delivery Vehicle.** Franchisee must obtain and operate a freezer-equipped ("reefer") Delivery Vehicle meeting System Standards that is capable, as of the Effective Date and subject to changes in System Standards during the Term of this Agreement, of storing at least 50 boxes (box dimensions 13.44 x 9.13 x 9.63 inches), equating to a minimum of 131.7 cubic feet of reefer cargo space. Franchisor must approve the vehicle Franchisee proposes to use as the Delivery Vehicle for the Franchised Business. Franchisee may buy, lease or rent the Delivery Vehicle, which must be wrapped with Franchisor's standard vehicle wrap to promote the Franchised Business. Franchisee covenants not to engage any third-party delivery service to deliver Program Meals except in the case of an emergency when Franchisee's Delivery Vehicle is incapable of maintaining proper temperatures of Program Meals or is being repaired while disabled. If the Delivery Vehicle is out of service for more than 72 hours, Franchisee shall make arrangements to rent a suitable temporary Delivery Vehicle while the regular Delivery Vehicle is being repaired. Franchisee will comply with Franchisor's requirements as set out in the Manual to assure that each

Delivery Vehicle is maintained, cleaned and serviced properly, displays no unapproved signage, and reflects positively on the image and reputation of the Franchised Business and the System.

**Section 3.04 Opening of the Franchised Business.** Franchisee must open the Franchised Business within 90 days after the Effective Date (the “**Actual Opening Date**” in Schedule B). The Franchised Business shall not be opened without the prior written approval of Franchisor, which approval will not be unreasonably withheld. Franchisor shall be entitled to withhold approval until Franchisee or its designated employee has satisfactorily completed Franchisor’s training program described in Section 9.04 below. Franchisee agrees to commence operation of the Franchised Business within ten (10) days after Franchisor determines Franchisee has met all of Franchisor’s pre-opening conditions, including without limitation compliance with all Laws, providing all governmental approvals and the certificate of occupancy to Franchisor.

Franchisee must purchase in advance of opening, the minimum amount of Program Meals inventory specified in the Manual for the initial weeks of operation from HTHM Supply or another supplier designated by Franchisor.

## **ARTICLE IV MARKS**

**Section 4.01 Ownership of the Marks.** Franchisee acknowledges Food International Holdings LLC is the owner of all rights, title, and interest in and to the Marks and that neither this Agreement nor the operation of the Franchised Business shall in any way give, or be deemed to give, Franchisee any interest in the Marks except for the right to use same pursuant to the terms of this Agreement. Franchisor and its Affiliates have taken and will take all steps reasonably necessary to preserve and protect the ownership and validity in and of the Marks.

**Section 4.02 Integrity of Marks.** Franchisee shall operate the Franchised Business utilizing the Marks without any accompanying words or symbols of any nature, unless first approved in writing by Franchisor. No part of the Marks nor any words similar thereto shall, without the prior written consent of Franchisor, be included in any world wide web address or in any corporate name used by Franchisee or by any person which has a direct or indirect interest in Franchisee or in which Franchisee may, at any time, have a direct or indirect interest. However, where required by applicable law, Franchisee shall register itself as carrying on business under the style name “Heart to Home Meals.”

**Section 4.03 Use and Display of Marks.** Franchisee shall use the Marks only in the operation of or advertising for the Franchised Business and only in the manner prescribed by Franchisor in the Manual and in other notices to Franchisee. Franchisee shall prominently display at the Premises a sign, in form approved by Franchisor, stating that the Franchised Business is independently owned and operated by Franchisee under license from Franchisor. If Franchisee utilizes any of the Marks, including, but not limited to, on any stationery, invoices, purchase orders, pamphlets or promotional material, 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, such items shall expressly indicate that Franchisee is a franchisee of Franchisor and a licensee of the Marks. Subject to Franchisor’s approval of the form of the proposed use, which it will not unreasonably withhold or delay, Franchisee may include in its fictitious name filing and

in the references to your Franchised Business a geographic reference relating to the Franchised Business's location as long as the reference does not interfere with the proper use of the Marks under the System and the required use of the Marks under trademark law (*e.g.*, Heart to Home Meals Fort Lauderdale).

Franchisee agrees not to use the Marks in any manner calculated to represent that it has any right, title or interest in and to any of the Marks other than the right to use the same in accordance with the terms of this Agreement. Franchisee agrees during the term of this Agreement and thereafter, not to dispute or contest, directly or indirectly, the validity or enforceability of any of the Marks nor counsel, procure or assist anyone else to do the same, nor directly or indirectly attempt to depreciate the value of the goodwill attaching to the Marks. Franchisee's right to use the Marks is limited to such uses as are authorized under this Agreement and the Manual, and any unauthorized use thereof shall constitute an infringement of the rights of the owner of the Marks; Franchisee shall execute any documents deemed necessary by Franchisor or its counsel to obtain protection for the Marks or to maintain their continued validity and enforceability.

**Section 4.04 Change or Discontinuance of Marks.** If it becomes advisable or desirable at any time, in the sole discretion of Franchisor, to modify or discontinue the use of any of the Marks or to use one or more additional or substitute Marks, trade names, trade dress, or trademarks, Franchisee must comply with Franchisor's directions within a reasonable time frame after receiving notice at its sole cost and expense. Franchisor will not reimburse Franchisee for any loss of revenue or profits attributable to the change in Marks or for any expenditures Franchisee makes to change Marks or to promote a modified or substitute trademark or service mark. Subject to Franchisor's approval of the form of the proposed use, which it will not unreasonably withhold or delay, Franchisee may include in its fictitious name filing and in the references to the Franchised Business a geographic reference relating to the Franchised Business's Territory as long as the reference does not interfere with the proper use of the Marks under the System and does not cause confusion over territorial responsibility among franchisees serving the same DMA. Franchisor reserves the right to withdraw its approval of a fictitious name and require the use of a different fictitious name at any time during the Term.

**Section 4.05 Infringement.** Franchisee shall immediately notify Franchisor of any suspected infringement of or known challenge to the validity of the Marks, any known challenge to the ownership of or Franchisee's use of the Marks, including any claim Franchisee's use of the Marks infringes on any third party's trademark rights. Franchisor shall have the sole discretion to take such action as it deems appropriate, including the sole right to direct and control any civil, administrative or other proceeding involving the Marks, including any settlement. Franchisor shall also have the sole right, but not the obligation, to take action against uses by others that may constitute infringement of the Marks. Franchisee must fully cooperate with Franchisor with respect to any prosecution of any claim or any defense of a claim Franchisee is infringing the trademark rights of any third party. Provided Franchisee complies with the terms of this Agreement, Franchisor agrees to indemnify Franchisee against and to reimburse Franchisee for any damages for which it is held liable in any trademark infringement proceeding disputing Franchisee's authorized use of any Mark under this Agreement if Franchisee has timely notified Franchisor of the proceeding and has complied with Franchisor's reasonable directions in responding to the proceeding.

**ARTICLE V  
FEES AND SECURITY INTEREST**

**Section 5.01 Initial Franchise Fee.** In consideration of the right and license granted hereunder, Franchisee shall pay to Franchisor, concurrently with the execution of this Agreement, an initial non-refundable franchise fee in the amount of Forty Thousand Dollars (\$40,000) plus Applicable Taxes (the “**Initial Franchise Fee**”). The Initial Franchise Fee shall be deemed to have been fully earned by Franchisor upon payment thereof and is non-refundable.

Franchisor charges Ten Thousand Dollar (\$10,000) as a deposit paid when a potential franchisee signs the Confidentiality and Deposit Agreement, after the expiration of applicable waiting periods required by law. The Deposit is applied toward payment of the Initial Franchise Fee payable under the Franchise Agreement. If a Franchise Agreement is not entered into within thirty (30) days after execution of the Confidentiality and Deposit Agreement and the expiration of all applicable waiting periods required by law, the Deposit, less Franchisor’s reasonable out-of-pocket expenses, is refundable to Franchisee upon return to Franchisor of all confidential materials provided to Franchisee.

**Section 5.02 Fees.** All fees are imposed by and are paid to Franchisor. All fees are non-refundable. As of the Effective Date, there are currently no franchisee cooperatives in existence, so there are no fees imposed by cooperatives and no voting power requirements for company-owned outlets.

(a) **Wholesale Prices of Program Meals.** No later than ten (10) days after the receipt of an invoice or as directed by HTHM Supply, Franchisee will pay Franchisor or its Affiliate for the wholesale prices of Program Meals purchased by Franchisee during the preceding Reporting Period. There is no royalty on the Gross Sales of the Program Meals to Program Customers.

(b) **Marketing Fund Fee.** After Franchisor gives notice to all franchisees that Franchise is implementing the Marketing Fund, Franchisee also will pay Franchisor in arrears, within ten (10) days after the end of each Reporting Period, a Marketing Fund Fee of at least two percent (2%) but not more than five percent (5%) of Gross Sales accrued for the Reporting Period. Payment will be made as provided in Section 5.04.

(c) **Manager Training Tuition.** Franchisee will pay, within fifteen (15) days of receipt of an invoice from Franchisor, a fee set forth in the Manual, which is Two Thousand Dollars (\$2,000) as of the Effective Date, for any replacement manager Franchisee sends to attend the initial training program, and Franchisee will pay the trainee’s compensation, benefits, travel, lodging and meal expenses.

(d) **Additional Training Fee.** As incurred, Franchisee will pay a fee set forth in the Manual (\$150 per hour as of the Effective Date) plus the trainer’s expenses for additional initial training requested by Franchisee. Franchisor may provide additional employee training at the Franchised Business Premises. Franchisor may change this rate at any time in the Manual.



(e) **Public Offering Fee.** If Franchisee requests Franchisor's review of a placement memorandum or registration statement for any public or private offering of Franchisee's equity or debt securities, Franchisee must pay a fee of Fifteen Thousand Dollars (\$15,000) to Franchisor when it makes such request.

(f) **Bank Fees.** As incurred, Franchisee will pay (i) the actual bank fees charged to Franchisor for insufficient funds or denied access for EFT/ACH transfer plus (ii) an administrative fee of \$25 per event.

(g) **Convention Fee.** Franchisee will within fifteen (15) days of receipt of an invoice pay a fee per attendee (which excludes the costs of travel, lodging, and meals) in advance of the annual convention if Franchisor elects to hold one. Franchisor may change this fee at any time in the Manual. Franchisor will charge this fee per mandatory attendee.

(h) **Restocking Fees & Charges.** At the expiration or termination of this Agreement, Franchisee will pay to Franchisor, the greater of twenty percent (20%) of Franchisor's repurchase price or Franchisor's costs to recover, transport and restock Program Meals.

(i) **Interest.** Any late payments Franchisee makes pursuant to this Agreement will bear interest from their due date until paid at a rate equal to the lower of (a) Prime Bank Rate plus four percent (4%) per month or (b) the maximum interest rate allowed by applicable law.

(j) **Applicable Taxes.** Franchisee will pay Franchisor an amount equal to any federal, state, provincial or local sales, gross receipts, use, value added, excise or similar taxes assessed against Franchisor on the Wholesale Program Meals Price and Marketing Fund Fees by the jurisdictions where the Franchised Business is located, but not including any income tax, franchise or other tax levied on Franchisor for its privilege of doing business in the state in which Franchisee operates. Franchisee will pay Applicable Taxes to Franchisor when due.

(k) **Technology Fee.** Franchisor may provide certain technology support services to franchisees to assist in using its designated technology systems for operating the Franchised Business. Franchisor does not currently charge a fee for this service but may elect to impose a fee to cover these support costs and related overhead in the future on at least thirty (30) days' prior written notice to all franchisees and may modify the fee once annually after its imposition.

(l) **Late Fee.** Franchisee is expected to provide accurate financial reports in a timely manner. If any financial report is not submitted by Franchisee by the due date specified in the Manual, Franchisor may assess a "Late Fee" of \$150, payable when invoiced.

**Section 5.03 Security Agreement and Grant of Security Interest.** As security for the Program Meals, the payment of the foregoing amounts and performance of Franchisee's obligations under this Agreement, Franchisee grants to Franchisor, its successors and assigns a security interest in this Agreement, all assets, including signs, signage, décor items, goods, supplies, equipment, and inventory, of the Franchised Business. Franchisee grants Franchisor the authority and power to file a copy of the signature page of this Agreement as part of any financing statement necessary to perfect and maintain Franchisor's security interest during the Term, in any

and all appropriate offices and public records. Franchisor may notify Franchisee's other creditors and lenders about the security interest and has no obligation to subordinate its interest to that of any other lender or secured creditor.

Franchisee grants Franchisor or its affiliate a security interest in all assets and proceeds from the sale of inventory to secure payment of amounts owed for the wholesale price of Program Meals you purchase. If Franchisor forecloses on the collateral, Franchisee will pay or reimburse Franchisor for the costs it incurs including attorneys' fees and court costs to enforce its security interest, regain possession and store the collateral.

**Section 5.04 Pre-Authorized Payments.** Franchisee shall participate in such pre-authorized payment plans, electronic funds transfer systems, automatic debiting systems or other similar plans or systems as Franchisor may require for Franchisee to make direct deposit payment of all amounts owing to Franchisor or its Affiliates. In order to participate in any such plans or systems, Franchisee shall, at Franchisee's cost, do all things necessary in order to implement and maintain such plans or systems including without limitation, executing and delivering any required authorization form within five (5) days of request therefore from Franchisor.

Franchisee will pay all amounts due to Franchisor or its Affiliates after the Franchised Business opens by electronic means under the Automated Clearing House Payment Authorization attached as Schedule E, or under any substitute form of authorization that Franchisor may require during the Term so that all fees will be paid by means of electronic funds transfer without the necessity of transmitting a paper check to Franchisor.

## **ARTICLE VI RECORDS AND REPORTING**

### **Section 6.01 Bookkeeping, Accounting and Records.**

(a) Franchisee shall establish a bookkeeping, accounting and record-keeping system conforming to the requirements prescribed from time to time by Franchisor including without limitation, the use and retention of cash register tapes, invoices, purchase orders, payroll records, check stubs, sales tax records and returns, books of original entry and general ledger together with such further and other records and documents as may from time to time be required by Franchisor. Franchisee shall purchase or lease all necessary computer hardware and software as specified by Franchisor from time to time in order to implement any computerized bookkeeping and accounting systems required by Franchisor. Franchisee and all its employees shall record at the time of sale, all sales or other transactions, whether for cash or credit, or by electronic equivalent.

(b) Franchisee acknowledges that Franchisor may independently access from a remote location, at any time, all information inputted to and/or compiled by Franchisee's computer system or any off-site server it maintains.

(c) Franchisee will keep all records of the Franchised Business for at least seven (7) years after the end of the fiscal year in which they are created in a manner and form satisfactory to Franchisor and will deliver any additional financial, operating and other information and reports

which Franchisor may request on the forms and in the manner it prescribes in the Manual. Franchisor will have the right to assemble and disseminate to third parties financial and other information regarding Franchisee and other franchisees to the extent required by law or to the extent necessary or appropriate to further the interests of the System as a whole. Franchisor will have the right to disclose the business name, address and telephone number as they appear in Franchisor's records in its franchise disclosure documents and to any person making inquiry as to the ownership of the Franchised Business. Franchisor will not disclose specific financial information regarding Franchisee or the Franchised Business to any person without (a) Franchisee's consent or (b) compulsion of law.

**Section 6.02 Reports and Financial Information.** Franchisee shall furnish to Franchisor such reports as Franchisor may require from time to time. Without limiting the generality of the foregoing, Franchisee shall furnish to Franchisor, in form from time to time prescribed by Franchisor:

(a) on the day of each week specified in the Manual, a weekly statement of the Gross Sales, total Program Meal deliveries and number of new Program Customers or new customer leads for the immediately preceding week of the Reporting Period;

(b) within twenty (20) days after the end of each Reporting Period, you will deliver to Franchisor a complete profit and loss statement for the Franchised Business in a form prescribed by Franchisor (and any other statistical reports which Franchisor may require under the Manual) for the Reporting Period upon written request;

(c) within one hundred and twenty (120) days after the end of each fiscal year of the Franchised Business, financial statements for the Franchised Business, including a balance sheet, profit and loss statement and a statement of retained earnings for such period, which statements shall be prepared by an independent certified public accountant approved by Franchisor, and signed and verified by Franchisee; and

(d) at the request of Franchisor, a profit and loss statement for the Franchised Business for its most recently completed three-month period. Franchisee also will send Franchisor a copy of all sales tax returns filed for the Franchised Business after filing with each appropriate taxing authority.

**Section 6.03 Right to Audit.** Franchisee agrees Franchisor shall have the right, at all reasonable times and without prior notice to Franchisee, to inspect or audit, or cause to be inspected or audited, the financial books, records, bookkeeping and accounting records and tax returns in respect of the Franchised Business. Franchisee shall fully cooperate with representatives of Franchisor or its agents conducting any such inspection or audit and will make copies of those items available for audit at its corporate offices at its cost. If any such audit or inspection discloses an understatement of Gross Sales for any period or payments due to Franchisor, Franchisee shall immediately pay to Franchisor the amount found to be owing together with interest thereon as provided for in this Agreement, calculated from the date when such amounts were due and payable to Franchisor. Further, in the event that such audit is made necessary by the failure of Franchisee to furnish reports, financial statements or tax returns as required by this Agreement or that Franchisee's records were insufficient to permit a determination of Gross Sales for any period or

if an understatement of Gross Sales is determined by any such audit to be greater than two (2%) percent, Franchisee shall reimburse Franchisor for the cost of such audit and its enforcement, including without limitation, the travel expenses, room, board and compensation of employees or agents of Franchisor, and Franchisor shall have the right to require that all further financial statements required by the terms of this Agreement be in audited form.

**Section 6.04 Inquiry by Franchisor.** Franchisee hereby authorizes Franchisor to make reasonable inquiry of Franchisee's financial institution, suppliers and other trade creditors of the Franchised Business as to their dealings with Franchisee in relation to the Franchised Business and Franchisee hereby authorizes and directs such bankers, suppliers and other trade creditors to disclose to Franchisor the affairs, finances and accounts of the Franchised Business and to provide to Franchisor information and copies of invoices relating to sales or other dealings between all such persons. If required, Franchisee agrees to execute and deliver such directions and other documents as Franchisor may require in order to permit such bankers, suppliers or other trade creditors to release or disclose any such information and documents to Franchisor.

## **ARTICLE VII TECHNOLOGY, COMMUNICATIONS AND INTERNET**

**Section 7.01 Computer Systems and Required Software.** Franchisor has the right to specify in the Manual or otherwise in writing that Franchisee acquires and uses in the operation of the Franchised Business electronic data collection, storage, reporting, exchange and interchange capability and services, including certain brands, types, makes and models of communications, hardware and software systems, peripherals and equipment (together, the "**Technology**")., including without limitation: (i) back office accounting, inventory and management systems, (ii) storage, retrieval and transmission systems for data, audio, video and voice files, (iii) point of sale systems or such other types of cash registers as Franchisor may designate or approve, (iv) physical, electronic and other security systems and procedures, (v) archival back-up systems, (vi) internet access capability and connectivity, and (vii) customer-facing marketing, ordering, entertainment, audio, video, internet access points and service systems. Franchisor has the right, but not the obligation, to develop or have developed for it, or to designate computer software programs and accounting system software that you must use as part of the Technology ("**Required Software**"). Franchisee shall install, learn, use and integrate all updates, supplements, modifications or enhancements to the Required Software when Franchisor so requires. Franchisor may specify in the Manual or otherwise the tangible media upon which Franchisee shall record data, the database file structure of the Technology and the requirements to ensure compliance with legal and payment card industry security standards. Franchisee shall implement and periodically make upgrades and other changes to the Technology as Franchisor requests in writing (together, "**Technology Upgrades**") for all System Franchised Businesses. Franchisor may be the sole supplier of proprietary Technology or Technology Upgrades that it develops or acquires for use at all Franchised Business.

**Section 7.02 Data.** Franchisor may specify in the Manual or otherwise in writing the information that Franchisee shall collect and maintain on the Technology. Franchisee will maintain its Cash Register and management systems on-line so that Franchisor may access them remotely at its discretion, copy stored data, update software, and view all records, files and reports available on or from those systems. Franchisee shall provide to Franchisor such reports as Franchisor may

reasonably request from the data so collected and maintained. All data Franchisee provides to Franchisor, transfers to Franchisor from Franchisee's Technology and download from Franchisor's to Franchisee's Technology will be owned exclusively by Franchisor or the data source Franchisor identifies. Franchisor will have the right to use such data in any manner that it deems appropriate without compensation to Franchisee. All other data Franchisee captures, creates or collects in the operation of the Franchised Business or from its affiliation with Franchisor (including, without limitation, consumer and transaction data), is and will be owned exclusively by Franchisor during the Term of, and following termination or expiration of, this Agreement. Franchisee must provide to Franchisor in the format it requires copies or original files of such data at Franchisor's request. Franchisor licenses the use of such data back to Franchisee, at no additional cost, solely for the Term and solely for the lawful use in the Franchised Business franchised under this Agreement. Franchisee may not lease, sell or rent such data to others.

**Section 7.03 Customer Facing Technology.** Franchisor may mandate that an accepted means of communication for Program Customers of the Franchised Business and may also mandate customer facing technology to accept and process Product orders, payments, and other means of providing service and an attractive environment to Program Customers.

**Section 7.04 Privacy & Security.** Franchisee shall abide by all applicable laws and payment card industry standards pertaining to the privacy and security of consumer, employee and transactional information ("**Privacy Laws**"). Franchisee shall comply with the System Standards and policies pertaining to Privacy Laws. If there is a conflict between the System Standards and policies pertaining to Privacy Laws and applicable law, Franchisee shall: (a) comply with the requirements of applicable law; (b) immediately give Franchisor written notice of said conflict; and (c) promptly and fully cooperate with Franchisor and its counsel to determine the most effective way, if any, to meet the System Standards and policies pertaining to Privacy Laws within the bounds of applicable law. Franchisee shall not publish, disseminate, implement, revise or rescind a data privacy policy without Franchisor's prior written consent. Franchisee shall encrypt personally identifiable information about Program Customers and employees as required by Privacy Laws or the Manual and follow all notification requirements, with a copy of all of outbound notices to Franchisor, if any data breach, hack or unauthorized access event occurs.

**Section 7.05 Extranet.** Franchisor may, but is not required to, establish a dedicated website with secure access for communication with and among franchisees and to offer information content relevant to operation of the Franchised Business (the "**Extranet**"). If Franchisor establishes an Extranet, then Franchisee shall comply with the requirements set forth in the Manuals or otherwise in writing for connecting to the Extranet and utilizing the Extranet in the operation of the Franchised Business. The Extranet may include, without limitation, and if so, will satisfy Franchisor's obligations under this Agreement to provide to Franchisee, the Manuals, training and other assistance materials, and management reporting solutions (both upstream and downstream, as Franchisor may direct).

**Section 7.06 Websites.** Unless Franchisor otherwise approves in writing, Franchisee shall not establish a separate Website (the term "**Website**" is defined to mean a group of related documents that can be accessed through a common internet address) but shall only have one or more references or webpage(s), as Franchisor designates and approves in advance, within Franchisor's Website. However, Franchisee may request to establish a separate Website and shall

submit its request to Franchisor, for Franchisor's prior written approval, a sample of the proposed Website domain name, format, visible content (including, without limitation, proposed screen shots) and non-visible content (including, without limitation, meta tags) in the form and manner Franchisor may reasonably require. Franchisee may activate the Website only if Franchisor so approves in advance in writing (which it is not obligated to approve and which approval it has the right to revoke at any time), in which case then the following conditions shall apply:

(a) Any Website owned or maintained by or for Franchisee's benefit shall be deemed "advertising" under this Agreement and will be subject to (among other things) Franchisor's approval of content and appearance under Section 9.19(b).

(b) Franchisee may not add inbound or outbound hyperlinks to or from or modify the Website without Franchisor's prior written approval as to such proposed hyperlinks or modification.

(c) Franchisee shall comply with System Standards for Websites that Franchisor may prescribe in the Manual or otherwise in writing.

Franchisee will establish such hyperlinks to Franchisor's Website and others as Franchisor may request in writing.

(d) Franchisee will not permit the entry, acceptance or confirmation of delivery of Program Meals on the Website that would violate Section 2.03.

**Section 7.07 Online Use of Marks and E-mail Solicitations.** Franchisee shall not use the Marks or any abbreviation or other name associated with the System or Franchisor as part of any e-mail address, domain name and/or other identification of Franchisee or its owners in any electronic medium. Franchisee will not transmit or cause any other party to transmit on its behalf advertisements or solicitations by e-mail or other electronic media without first obtaining Franchisor's written consent as to: (a) the content of such e-mail advertisements or solicitations and (b) its plan for transmitting such advertisements. Franchisee shall be solely responsible for compliance with any laws pertaining to sending e-mails including but not limited to the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (known as the "**CAN-SPAM Act of 2003**"). Under no circumstances shall Franchisee send any e-mail to a person or address outside the United States.

**Section 7.08 No Outsourcing without Prior Written Approval.** Franchisee shall not hire third party or outside vendors to perform any services or obligations related to the Technology, Required Software, or any other of its obligations under this Section, without Franchisor's prior written approval. Franchisor may condition its consideration of any proposed outsourcing vendor(s) upon, among other things, such third party or outside vendor's entry into a confidentiality agreement with Franchisor and Franchisee in a form provided by Franchisor.

**Section 7.09 Changes to Technology.** The parties acknowledge that technology used in the meal delivery business is dynamic and not subject to predictable patterns of development and change. To keep pace with technological needs and opportunities and to support the competitiveness of the System, Franchisee acknowledges that Franchisor shall have the right to

establish, in writing, new and revised System Standards for the implementation of technology as part of the System. Franchisee shall abide by those new or revised System Standards as implemented on a System-wide basis.

**Section 7.10 E-Mail Communication.** Franchisee acknowledges Franchisor is entitled to rely upon e-mail to communicate with it as part of the economic bargain underlying this Agreement. To facilitate the use of e-mail to exchange information between the parties, Franchisee will maintain e-mail capabilities as specified in the Manual. Franchisee authorizes the transmission of e-mail from and to Franchisor, its affiliates, and vendors on matters pertaining to the business contemplated under this Agreement. Franchisee will provide Franchisor with the current e-mail address and shall immediately notify of any change of e-mail address and any technical problems with the e-mail account of Franchisee and its owners that would make communications delayed or impossible. If any such e-mail account becomes disabled for any reason, Franchisee shall immediately provide Franchisor with an alternative e-mail address. Franchisee will cause its officers, directors, members and employees (as a condition of their association or position with Franchisee) to give their consent (in an e-mail, electronically, or in a pen-and-paper writing, as Franchisor may reasonably require) to transmission of Franchisor's e-mails to them, and such persons shall not opt-out, or otherwise ask to no longer receive e-mails from Franchisor during the time that such person works for or is affiliated with Franchisee. Franchisee acknowledges that if it opts-out, or otherwise asks to no longer receive e-mails from Franchisor during the Term, it will be in material breach of this Agreement. Franchisor will assign email account(s) to Franchisee to conduct its official business. Franchisee covenants with Franchisor (i) to use such official email account only for the purposes of conducting the Franchised Business and (ii) to comply with Franchisor's instructions regarding access and use restrictions, password protection and changes, data security and Privacy Law compliance.

## **ARTICLE VIII OBLIGATIONS OF THE FRANCHISOR**

**Section 8.01 Initial Training and Opening Assistance.** Franchisor will provide training services to two (2) persons designated by Franchisee, at least one (1) of whom shall be the Owner-Operator, in all aspects of the System and the operation of a Heart to Home Meals Business. The cost of the initial training shall be included in the Initial Franchise Fee. Such training shall be conducted prior to the opening of the Franchised Business and may be given at one or more locations specified by Franchisor. Franchisee shall be responsible for all travel, living expenses and compensation payable to its designated personnel during training. If the Guarantor designated as Owner-Operator of the Franchised Business pursuant to Section 2.04 fails to satisfactorily complete the initial training, Franchisor shall have the right to terminate this Agreement, and the parties will deliver mutual releases in form satisfactory to Franchisor.

During the initial training or prior to the opening of the Franchised Business, Franchisor will provide Franchisee with two (2) uniforms, will arrange for the installation at the Premises of Franchisor's designated ordering and inventory management software and will conduct an initial marketing program for the launch of the Franchised Business. The cost of the foregoing is included in the Initial Franchise Fee.

**Section 8.02 Continuing Assistance.** Franchisor agrees to furnish to Franchisee such continuing advice and guidance as is from time to time reasonably required by Franchisee in connection with Franchisee's operation of the Franchised Business, including advice and guidance with respect to the following:

- (a) training employees of the Franchised Business;
- (b) selection and purchasing of supplies for the Franchised Business;
- (c) formulation and implementation of local advertising and promotional programs; and
- (d) the establishment and maintenance of accounting, inventory control and general operating procedures.

**Section 8.03 Additional Training, Seminars and Conferences.** Franchisor may from time to time make available to the Guarantors and other employees of Franchisee additional training, seminars and conferences at such times and places and for such fees as Franchisor reasonably determines. Course fees, travel and living expenses incurred in connection with attendance at such courses, seminars or conferences shall be borne by Franchisee. The Guarantors and such employees as may be designated by Franchisor shall attend all such additional training programs, seminars or conferences.

**Section 8.04 Special Assistance.** Upon reasonable written request of Franchisee, Franchisor will use its reasonable best efforts to furnish assistance to Franchisee to aid with specific problems which are beyond the scope of Franchisor's obligations in this Article VIII. Franchisee agrees to reimburse Franchisor promptly for the actual time expended and actual expenses incurred by Franchisor in providing such assistance.

**Section 8.05 Business Plans.** Franchisor may consult with Franchisee from time to time with respect to Franchisee's plans and goals to increase the demand for goods and services offered for sale from the Franchised Business and to achieving the Sales Target for any year during the Term.

**Section 8.06 Manual.** Franchisor will provide intranet access to, or loan to Franchisee during the term of this Agreement a copy of the Manual which may consist of one or more publications. Franchisor may modify the Manual from time to time to reflect changes in the System. From time to time as the Manual is amended, Franchisee agrees to insert all new pages in their proper places in the Manual and shall remove and immediately destroy the superseded pages. The Manual, including all new pages and all superseded pages shall remain the property of Franchisor. The master copy of the Manual maintained by Franchisor at its head office will govern any dispute between the parties regarding the contents of the Manual.

**Section 8.07 After Opening.** Following the opening of the Franchised Business, Franchisor may provide marketing and advertising assistance and promotional assistance, which may include periodic individual or group advice, consultation and assistance by personal visit, by telephone, electronic communication, or by newsletters or bulletins that Franchisor makes available to franchisees. These consultations will cover training employees, selecting and



purchasing supplies, formulation and implementation of local advertising and promotional programs, and the establishment and maintaining of the System standard accounting, inventory control and general operating procedures. Franchisor may also provide Franchisee with marketing materials and merchandising, marketing, and advertising research data and advice, which Franchisor may develop from time to time and deem helpful in the operation of the Franchised Business and provide assistance to Franchisee in implementing promotions conducted before and after the Franchised Business opens, in accordance with Franchisor's policy at the time. Any costs incurred to implement the promotional programs shall be Franchisee's responsibility.

Furthermore, Franchisor shall establish standards and specifications for services and products offered at or through the Franchised Business and for the uniforms, Equipment and Furnishings and services offered, including conduct inspections of the Franchised Business as Franchisor may deem necessary or desirable, including without limitation examinations of the Franchised Business's inventory, products, equipment, or materials or accessing and reviewing all recorded video or data and reports provided by the management information or Computer System, and other systems or applications. Such inspections and reviews may be conducted without prior notice to Franchisee and shall be performed in a manner that minimizes interference with the operation of the Franchised Business.

In addition, Franchisor may conduct periodic field evaluations and standards assessment inspections and reviews of the Franchised Business to test and promote its compliance with System Standards and quality control. These evaluations and inspections may offer suggestions and recommendations about staffing, but Franchisee has no obligation to follow the suggestions or recommendations. Franchisor may, in its sole discretion, implement customer evaluation and guest survey feedback programs, mystery shopper programs, independent inspection programs, and any similar programs in its election. Franchisor may use the scores and comments from any such programs to evaluate whether Franchisee meets the System Standards or is in compliance with this Agreement. Franchisor may publish the results of its tests and evaluations. As of the Effective Date, Franchisor has not established a guest survey feedback program.

Franchisor shall provide Franchisee with updates, revisions, and amendments to the Manual in order to implement changes to the System and the Marks, including without limitation new developments, systems, techniques, and improvements in food products, services, Equipment and Furnishings, Computer System, technologies and services for management of the Heart to Home Meals Business that Franchisor may develop from time to time and deem helpful to the operation of the Franchised Business.

**Section 8.08 Approved Program Meals, Services, and Suppliers.** Franchisor will publish a list of approved suppliers and their respective approved products and services in the Manual and/or in other written or electronic communications. As new suppliers, products and services become available, Franchisor will amend such list.

Franchisor may also publish in the Manual the procedures and fees for obtaining approval of any supplier Franchisee wishes to nominate to become an approved supplier. Franchisor may deny approval of any nominee in its sole discretion. Franchisor or its Affiliate may be the sole approved suppliers for proprietary goods or services, or for goods and services it deems to be integral parts of the Franchised System that must be supplied on a consistent, uniform basis to all

franchisees. Franchisor or its Affiliates may earn a profit from providing purchasing and procurement services, including receipt of fees from third party suppliers.

### **Section 8.09 Approval of Alternative Suppliers; Product Specifications.**

(a) If Franchisee desires to use a good or service or obtain a good or service (other than Program Meals) from a supplier Franchisor has not yet approved, Franchisee first must submit sufficient information, specifications and/or samples for Franchisor's determination whether the product or service complies with the System Standards, or the supplier meets Franchisor's approved supplier criteria. Franchisor may establish and revise its approved supplier criteria from time to time as it deems appropriate and will make them available to its franchisees upon written request. Franchisor may condition its approval of a supplier on the supplier's agreement to comply with product quality standards, frequency of delivery, standards of service, and concentration of purchase requirements. Franchisor also may impose limits on the number of approved suppliers, products and services. Franchisor's approval should not take more than 30 days in most instances. Franchisor reserves the right to test equipment or supplies and inspect the premises of suppliers before granting its approval. Franchisor will invoice Franchisee for the out-of-pocket costs and expenses it incurs for any inspection or testing. Franchisor will not issue its approval of the supplier until Franchisee pays that invoice. Franchisor may terminate its approval of a supplier or any products or services at any time, with or without cause, upon written notice of thirty (30) days.

(b) Franchisor will formulate and modify its Equipment and Furnishings, vehicle, technology, Product and ingredient specifications and standards by reviewing each product on an individual basis, taking into consideration the supplier's ability to provide consistently high-quality products and services to Franchisee or its approved suppliers on a timely basis. Franchisor generally will formulate specifications and standards based on the quality of the products and other relevant factors. Franchisor periodically may review each product and respective supplier to make sure that the supplier is following the specifications and standards.

(c) Franchisor may issue some of its technology, Product and ingredient specifications and standards to Franchisor's approved suppliers under appropriate confidentiality restrictions, but not to its franchisees. Franchisor may undertake other steps to maintain trade secrets and confidentiality of proprietary recipes and formulations, software and other items.

**Section 8.10 Revenue from Franchisee Purchases and Payments to Franchisor from Designated Suppliers.** Franchisor may derive revenue from suppliers from franchisee purchases in the future in its sole discretion. Franchisor or its designated supplier Affiliate will derive revenue from franchisee purchases of Program Meals.

Franchisor intends to negotiate preferred vendor agreements with designated suppliers and approved suppliers that it expects will provide favorable pricing and delivery terms to franchisees. These agreements may pay Franchisor revenues based on the volume of franchisee purchases, which may be measured in sales dollars or units sold. These arrangements are not in effect as of the Effective Date, but Franchisor expects them to be in place in the future.

## Section 8.11 Marketing Fund.

(a) Franchisor may, in its sole discretion, establish and administer a marketing fund (the “**Marketing Fund**”) for the purpose of supporting marketing (including without limitation advertising, promotion, public relations and other marketing activities) of the Heart to Home Meals Business and System, as Franchisor may deem necessary or appropriate. Franchisor shall direct all such advertising programs in its sole discretion with respect to the creative concepts, materials, endorsements and media used therein, and the placement and allocation thereof. Franchisee will pay a Marketing Fund Fee to Franchisor in an amount Franchisee shall contribute to the Marketing Fund in each year an amount determined by Franchisor from time to time but in any event not less than two percent (2%) nor more than five percent (5%) (as designated in the Manual) of the Gross Sales of the Franchised Business plus Applicable Taxes. Such contribution shall be paid based upon Gross Sales for the immediately preceding Reporting Period.

(b) Franchisor will create, supervise and manage all advertising programs with sole control over the strategic direction, creative concepts, materials and media used in the programs, and the geographic, market and media placement and allocation of advertising. The Marketing Fund shall be used and expended for items such as media costs, commissions, market research costs, creative and production costs, including, without limitation, the costs of creating promotions and artwork, printing costs, and other costs relating to advertising and promotional programs undertaken by Franchisor. Franchisor reserves the right to place and develop such advertisements and promotions and to market same as agent for and on behalf of Franchisee, either directly or through an advertising agency retained or formed for such purpose or through cooperative advertising groups composed of Heart to Home Meals franchisees designated by Franchisor.

(c) Franchisor will account for all Marketing Fund Fees it collects in a separate account. Franchisor also may deposit the marketing, promotional and other payments it receives from suppliers into the Marketing Fund. Franchisor will disburse the Marketing Fund to pay for marketing, advertising, promotional, public relations, and other similar activities intended to benefit the Heart to Home Meals Businesses and their administration. Those activities may include (without limitation) (a) market research, (b) marketing technology development and implementation, (c) customer service, loyalty and reward programs, (d) media purchases, (e) advertising production, (f) advertising and public relations agency fees and expenses, and (g) product research and development. Franchisor also may use the Marketing Fund to pay or reimburse it for its administrative overhead incurred for activities supported by the Marketing Fund but will not use the Marketing Fund to defray any of Franchisor’s general operating expenses. Franchisor shall be entitled to charge a reasonable amount to the Marketing Fund, not to exceed fifteen percent (15%) of the total contributions to the Marketing Fund, to cover its actual administrative expenses and overhead incurred in connection therewith. Any moneys in the Marketing Fund not spent at the end of each fiscal year will remain in the Marketing Fund, provided that amounts contributed to the Marketing Fund may be used to pay taxes associated with unspent amounts on deposit in the Marketing Fund. Franchisor will have the sole and exclusive discretion to direct all activities and programs funded by the Marketing Fund. Franchisor generally will administer the Marketing Fund for the benefit of all Heart to Home Meals Businesses. Franchisee acknowledges that Franchisor has no obligation expend Marketing Fund amounts for its benefit equivalent or proportionate to its Marketing Fund Fees, and Franchisor does not warrant

or guaranty that Franchisee will receive or derive any benefit from Marketing Fund activities. Franchisee acknowledges that the Marketing Fund is intended to further general public recognition and acceptance of the Marks for the benefit of the System. Franchisee further acknowledges that Franchisor and its designees undertake no obligation in administering the Marketing Fund to make expenditures for Franchisee which are equivalent or proportionate to Franchisee's contributions, to ensure that any particular franchisee benefits directly or pro rata from the placement of advertising or to ensure that any advertising or marketing impacts or penetrates the Franchised Business or surrounding area. The Marketing Fund is not a trust and Franchisor is not a fiduciary with respect to the Marketing Fund. Franchisor will make all studies and reports produced by the Marketing Fund available to Franchisee at no cost as Confidential Information. Franchisor will make copies of all materials produced by the Marketing Fund for franchisee use available to Franchisee at Franchisee's expense. Franchisor may suspend, terminate and reinstate the Marketing Fund at any time. The Marketing Fund will not terminate, however, until Franchisor has spent all moneys in the Marketing Fund for the purposes set forth above.

**Section 8.12 Advertising Cooperative.** Franchisor may establish one or more advertising cooperatives at any time and, further, may modify, terminate and reform any existing advertising cooperative at any time in its sole discretion. If the Franchised Business operates within a DMA for which an approved advertising cooperative exists, Franchisee will contribute to the advertising cooperative the amounts required by the cooperative up to 2% of the Gross Sales of the Franchised Business during each Reporting Period. Any such payments made to any cooperative will count towards satisfaction of the minimum local advertising spending under Section 9.19. All System Franchised Businesses that Franchisor or its Affiliates operate will participate in any advertising cooperative that Franchisor establishes for the DMA in which they are located on the same basis as the Franchised Business in the DMA. Franchisor will administer the cooperative unless it designates another party to perform the administrative functions. The cooperative may have written governing documents that Franchisor must provide or approve, which will be available for all participants in the cooperative to review. Each cooperative will maintain accounting records and compile financial statements that will be available for review by all participants. Franchisor retains the power to require any cooperative to be formed, changed, dissolved or merged with another cooperative.

**Section 8.13 Publicity and Promotional Materials.** Franchisor will have the right to photograph the Franchised Business and to use the photographs in any of its publicity or advertising programs. Franchisee consents to such photography and use, and covenants to cooperate in securing the photographs and the consents of any individuals pictured. Franchisee will place franchised recruitment advertising and promotional materials for Heart to Home Meals Business franchises in the Franchised Business if and when Franchisor so requests.

## **ARTICLE IX OBLIGATIONS OF FRANCHISEE**

**Section 9.01 Operation of the Franchised Business.** From and after the Actual Opening Date, Franchisee covenants to promote, market, develop and operate the Franchised Business to maximize the sale of Program Meals in the Territory to Program Customers.

Franchisor will measure Franchisee's performance through the Market Index and other indicators specified in the Manual, in addition to the Sales Target measurement. Throughout the term of this Agreement, Franchisee must operate its Franchised Business continuously under the System and shall comply with all System Standards, specifications and operating procedures from time to time prescribed by Franchisor, in the Manual or otherwise in writing, relating to the System and to the operation of the Franchised Business, including without limitation:

- (a) the goods and services offered for sale from the Franchised Business;
- (b) the safety, maintenance, cleanliness, function, condition, and appearance of the Franchised Business.
- (c) food safety standards as determined from time to time by Franchisor and the applicable Laws and government agencies, including the Food and Drug Administration, Occupation Safety and Health Administration, and the local health board;
- (d) the general appearances of employees of the Franchised Business;
- (e) the use of the Marks; and
- (f) the hours during which the Franchised Business is open for business, subject to any restrictions contained in the Lease.

All such specifications, standards, and operating procedures shall be reasonable and shall comply with the requirements of all applicable laws and regulations. System Standards, specifications, and operating procedures prescribed from time to time by Franchisor in the Manual, or otherwise communicated to Franchisee in writing, shall constitute provisions of this Agreement as if fully set forth herein.

Franchisee may not engage in any business or offer any other services or products at the Franchised Business that is or are not a part of the System or without Franchisor's express authorization in advance. Franchisee must offer Franchisor's entire menu except those items Franchisor designates as optional and may not offer additional menu items without Franchisor's prior written consent. Franchisor retains the right to modify the Manual to modify, discontinue or add to the Program Meals, goods and services that Franchisee must sell in the Franchised Business, which may include new or modified menu items and recipes or methods of preparation or delivery. There are no limits on Franchisor's right to make these changes.

Franchisor requires Franchisee to purchase Program Meals, certain equipment, supplies and other products and services from Franchisor and third-party vendors approved or designated by Franchisor, which includes Franchisor's Affiliates. Franchisor requires Franchisee to purchase other products, equipment and services by brand name or specification, from vendors of Franchisee's choice. These products, vendors and specifications are identified periodically in the Manual, or in notices from Franchisor, but may be changed or modified from time to time as Franchisor deems necessary.

All advertising and promotional materials, signs, decorations, paper goods (including menus and all forms and stationery used in the Franchised Business) and other items Franchisor

designates must bear the Marks in the form, color, location and manner Franchisor prescribes. In addition, all advertising and promotion in any medium (including websites, Internet postings or markings) must be conducted in a dignified manner and must conform to the System Standards and requirements in the Manual, the Franchise Agreement or otherwise. Franchisee must obtain Franchisor's approval before use of any advertising and promotional materials and plans. Franchisee must obtain Franchisor's written approval of the content and design of its separate Website or Internet posting or marketing in advance of such use and such use must be in compliance with Franchisor's policies including the use and presentation of the Marks.

Franchisee will follow the System Standards and specifications Franchisor establishes for goods, Program Meals and services procured for the operation of the Franchised Business. Franchisor has the right to require Franchisee to obtain any product or service used in the operation of the Franchised Business from Franchisor, its Affiliates, or suppliers it approves. Franchisor has the right to require Franchisee to participate in a national or regional approved purchasing cooperative for the area in which the Franchised Business operates.

**Section 9.02 Franchisee's Employees.** Franchisee must recruit, hire, train, schedule, equip, dress, discipline, manage and supervise a competent, conscientious staff to meet the System Standards, compliant with such uniforms and/or dress code as Franchisor may prescribe in the Manual, and take such steps as are necessary to ensure that the employees preserve good customer relations and the goodwill of the System. Franchisee shall be fully responsible for all matters relating to its employees including but not limited to:

- (a) the hiring, firing, promotions, or demotions of its employees;
- (b) controlling the remuneration and classification of its employees; and
- (c) training and supervision of its employees including ensuring that all employees satisfactorily pass such background check as is necessary for those working with, or providing services to, seniors and others considered to be vulnerable.

Franchisee must operate and maintain the Franchised Business to meet the health and life safety standards and ratings applicable to the operation. Franchisee must furnish to Franchisor, within five (5) days after receipt thereof, a copy of all inspection reports, warnings, citations, certificates and/or ratings resulting from inspections conducted by any federal, state or municipal agency with jurisdiction over the Franchised Business. The Franchised Business's failure of any health, sanitation, food-related or life safety inspection is a material breach of this Agreement and must be remedied within the time frame specified in the applicable regulations or code.

Franchisee may hire an "on-Premises" manager to handle the day-to-day operations of the Franchised Business, but any such manager must have completed the initial training program and sign a Management Confidentiality and Non-Competition Agreement before such training starts in substantially the form attached as Schedule G. Franchisor may require Franchisee's employees to sign a written agreement at the time of employment to maintain confidentiality.

Franchisee shall be responsible for ensuring its policies and practices are in accordance with all labor relations legislation in the state in which the Franchised Business is operated.

**Section 9.03 Opening Training.** Franchisee shall not open or operate the Franchised Business without attending and passing the initial training as described in Section 8.01, which shall be conducted prior to the opening of the Franchised Business and may be provided at one or more locations specified by Franchisor. Franchisee shall be responsible for all travel, living expenses and compensation payable to its designated personnel during training.

**Section 9.04 Additional Training.**

(a) Franchisee, the Guarantors and Franchisee's designated employees shall attend and satisfactorily complete all courses, seminars and training programs conducted by or on behalf of any Regulatory Authority for persons engaged or involved with food handling.

(b) If a certified manager leaves Franchisee's employment for any reason, Franchisee must hire a replacement manager within thirty (30) days who must attend the next training program slot available. Franchisee may continue operating the Franchised Business until a replacement manager has completed the training program without being in default of this agreement. Franchisee must pay any tuition and additional fees for materials Franchisor then charges for training of additional operators after Opening Training.

(c) As of the Effective Date, Franchisor charges an Additional Training Fee of \$150 per hour plus travel, lodging and meals for trainers Franchisor provides at Franchisee's request for additional training at the Franchised Business. Franchisor may change this rate at any time in the Manuals. Franchisee is responsible to pay all compensation, benefits, travel expenses, living expenses, and any other personal expenses for its designees enrolled in the programs offered. Because of the long hours of training, Franchisee may be required to pay trainees over time if they are non-exempt employees. Franchisee must furnish proof of worker's compensation insurance coverage for such persons before their training begins. Franchisee's trainees will not be considered borrowed servants of Franchisor or its Affiliates for any purpose, and they will at all times remain under Franchisee's control and supervision. Any of Franchisee's employees who attend Franchisor's training must sign a Management Confidentiality and Non-Competition Agreement before such training starts in substantially the form attached as Schedule G.

**Section 9.05 Full Time and Attention.** The parties acknowledge that it is essential to the proper and efficient operation of the Franchised Business that it be at all times under the direct supervision of the Owner-Operator and who will, during the term of this Agreement, devote his or her full time and attention to the management, supervision, and operation of the Franchised Business.

**Section 9.06 Licenses and Permits.** Franchisee shall secure and maintain in force all required licenses, permits and certificates relating to the operation of the Franchised Business and shall operate the Franchised Business in full compliance with all applicable Laws.

**Section 9.07 Insurance.** Franchisee shall obtain and maintain in full force throughout the term of this Agreement, such insurance coverage as Franchisor may from time to time require, as specified below or in the Manual or otherwise (including without limitation, vehicle insurance, fire and extended coverage insurance on the Equipment and Furnishings, leasehold improvements and inventory of the Franchised Business and business interruption insurance), fully protecting

Franchisor, its Affiliates and Franchisee against loss or damage occurring in conjunction with the operation of the Franchised Business. All costs in connection with such insurance shall be borne by Franchisee and coverage shall be in such amounts as Franchisor in its absolute discretion from time to time deems appropriate. All of the liability insurance policies, other than Workers' Compensation, must name Franchisor, its parent company, and their respective officers, directors, members, shareholders, partners and employees as additional insureds on a primary noncontributory basis for operations of the Franchised Business. The form of additional insured endorsement will be CG 20 10 or its equivalent. If the additional insured has other insurance applicable to a loss, it will be on an excess or contingent basis. The additional insured's insurance coverage will not be reduced by the existence of such other insurance.

Franchisee must obtain and maintain the specified insurance coverage during the Term from a responsible carrier or carriers authorized to write coverage in the state of operation having an A.M. Best rating of at least A-VI that Franchisor finds acceptable. The type of coverage includes:

(a) Commercial General Liability coverage (\$1 million single limit per occurrence; \$2 million general aggregate limit, for both general liability and products /completed operations liability) for personal injury and property damage, including premises, independent contractors, products and completed operations, contractual, personal and advertising liability, on an occurrence basis, with coverage on a 1986 or later ISO commercial general liability form policy;

(b) "All Risk" property coverage including a property damage limit for the full cost of replacement of the Franchised Business and business interruption coverage for up to twelve months of projected earnings;

(c) Business Automobile Liability covering liability arising out of any auto (including owned, hired and non-owned autos), with a minimum of \$1 million combined single limit each accident;

(d) Workers' Compensation or legally appropriate alternative covering all employees and contractors working at the Program Meals Business for statutory limits and Employers Liability with minimum limits of \$1 million for bodily injury for each accident, \$500,000 bodily injury by disease for each employee and \$500,000 bodily injury disease aggregate;

(e) A \$2 million Umbrella Policy on an occurrence basis excess of covering excess of the underlying insurance described in (1), (3) and (4) above which is at least as broad as each and every underlying policy, provided that you may purchase more underlying coverage and less umbrella coverage under such policies as long as you maintain the total amount of the limits specified for each coverage area;

(f) Other insurance as may be required by the state or locality of the Premises;

(g) Employment practices liability insurance with a limit of \$500,000; and

(h) Employee Dishonesty/Fidelity insurance with a limit of \$100,000.



Prior to the opening of the Franchised Business and thereafter, at least thirty (30) days prior to the expiration of any such policy or policies, Franchisee shall deliver to Franchisor certificates of insurance demonstrating the required insurance coverage from time to time with limits not less than those required by Franchisor, and all such certificates shall expressly contain endorsements requiring the insurance company to give Franchisor at least thirty (30) days prior written notice in the event of material alteration to, termination, non-renewal, or cancellation of, the coverages demonstrated by such certificates. Franchisee shall provide Franchisor notice of any claim filed under such policy within thirty (30) days after the filing of such claim.

If Franchisee at any time fails or refuses to maintain any insurance coverage required by Franchisor or to furnish satisfactory evidence thereof, Franchisor, at its option and in addition to its other rights and remedies hereunder, may, but need not, obtain such insurance coverage on behalf of Franchisee, and Franchisee shall pay to Franchisor, on demand, any premiums incurred by Franchisor in connection therewith. Franchisee's obligation to obtain and maintain, or cause to be obtained and maintained, the foregoing insurance shall not be limited in any way by reason of any insurance which may be maintained by Franchisor, nor shall Franchisee's performance of that obligation relieve it of liability under the indemnity provisions set forth in Section 14.01 hereof. Notwithstanding the existence of such insurance, Franchisee is and shall be responsible for all loss or damage and contractual liability to third persons originating from or in connection with the operation of the Franchised Business and for all claims or demands for damages to property or for injury, illness or death of persons directly or indirectly resulting therefrom.

**Section 9.08 Equipment and Furnishings.** Franchisee agrees to install and use in the operation of the Franchised Business only such Equipment and Furnishings that strictly conforms to the appearance, System Standards and specifications of Franchisor and the requirements of all applicable Laws. Without limitation, Franchisee shall purchase or lease and install all required Equipment and Furnishings, including without limitation, the components of the Computer System, a commercial-grade freezer of the size and with other specifications designated by Franchisor, and a Delivery Vehicle. Notwithstanding the foregoing, during the first year of operation of the Franchised Business, Franchisee may, with the consent of Franchisor, acting reasonably, purchase or lease freezers acceptable to Franchisor to be situated in a Guarantor's home or leased location owned by a third party provided that such commercial freezer is located within the Territory and that such freezer complies with all applicable Laws. Franchisee shall maintain each item of Equipment and Furnishings from time to time used in the operation of the Franchised Business in good order and repair and shall cause the same to be replaced as it becomes obsolete or mechanically impaired.

Franchisee must purchase Program Meals, condiments, supplies, paper products, Computer System, and signage from vendors Franchisor approves or that meet the specifications published in the Manual or otherwise in writing.

**Section 9.09 Condition and Appearance of the Franchised Business.** Franchisee will not display any other sign or advertising at the Franchised Business without Franchisor's consent other than as permitted by the Manual. Franchisee agrees to maintain the condition and appearance of the Premises and the Equipment and Furnishings in a manner consistent with the image of an attractive, modern, clean, convenient, and efficiently operated Heart to Home Meals Business offering high quality products and efficient and courteous service. Franchisee agrees to maintain

the Premises and the Equipment and Furnishings as is reasonably required from time to time to maintain such condition, appearance and efficient operation and to comply with the System and with all applicable Laws, including without limitation, replacement of worn-out or obsolete equipment. All such maintenance shall be at Franchisee's cost and expense. If at any time in Franchisor's reasonable judgment, the general state of repair, appearance or cleanliness of the Premises or the Equipment and Furnishings does not meet Franchisor's standards therefore, Franchisor shall notify Franchisee and specify the action to be taken. If Franchisee fails to take such action within five (5) days after receipt of Notice from Franchisor, it may, without prejudice to any other rights or remedies hereunder, cause such repair or maintenance to be done, at the sole cost and expense of Franchisee. Franchisee shall reimburse Franchisor, on demand, for all costs and expenses incurred in connection therewith.

**Section 9.10 Inspections.** Franchisee agrees to permit Franchisor or its authorized representatives to enter and inspect the Premises and to examine all aspects of the Franchised Business and to test the Equipment and Furnishings, supplies, goods and services for the purposes of ascertaining whether Franchisee is operating the Franchised Business in accordance with the System and the terms of this Agreement. Franchisor may interview employees, vendors, landlords, and Program Customers. Inspections may be conducted at any time during regular business hours of the Franchised Business and without prior notification to Franchisee. Franchisor may notify Franchisee of any deficiencies detected during such inspections and Franchisee shall diligently and promptly correct any such deficiencies in accordance with the terms of such notification.

**Section 9.11 Authorized Suppliers.** Franchisee shall purchase the Program Meals only from HTHM Supply or such other supplier designated from time to time by Franchisor and shall purchase all menus, brochures and catalogues bearing the Marks only from suppliers and printers designated by Franchisor. Franchisee shall have the right to purchase Equipment and Furnishings and other printed materials from any supplier provided that the Equipment and Furnishings meet the suppliers and supplies are first approved by Franchisor or meet the standards and specifications of the System as published in the Manual or otherwise in writing.

**Section 9.12 Authorized Program Meals and Services.** Franchisee will follow the System Standards and specifications as established by Franchisor for goods, Program Meals, and services procured for the operation of the Franchised Business. Franchisor has the right to require Franchisee to obtain any Product or services used in the operation of the Franchised Business from it, its Affiliates, or any approved suppliers. Franchisor has the right to require Franchisee to participate in a national or regional approved purchasing cooperative for the area in which the Franchised Business operates. Without the express prior written consent of Franchisor, which consent may be withheld in its sole discretion, Franchisee shall advertise and offer for sale from the Franchised Business only the Program Meals and shall not advertise or offer for sale any unauthorized goods or services on or from the Premises or in connection with the operation of the Franchised Business. Franchisor may, from time to time, establish the prices to be charged by Franchisee for Program Meals sold to Program Customers of the Franchised Business, which Franchisee shall abide by without deviation. Franchisee shall sell and offer for sale the Program Meals only within the Territory and only by way of delivery to Program Customers in their own homes. Without limitation, Franchisee shall use its Delivery Vehicle solely for the purpose of the Franchised Business and the delivery of Program Meals.

**Section 9.13 Advise Suppliers.** Franchisee shall advise each supplier and all others with whom Franchisee deals that Franchisee is an independent contractor and that all debts incurred by Franchisee are for the account of Franchisee only and have not been incurred on behalf of Franchisor.

**Section 9.14 Credit Cards.** Franchisee agrees to at all times to comply with the Payment Card Industry Data Security Standard and to have arrangements in existence with Visa, MasterCard, American Express and such other credit card issuers or sponsors and electronic funds or debit card transfer systems as Franchisor designates or approves in writing from time to time to enable Franchisee to accept customer's credit cards, checks, and other methods of payment for the Program Meals.

Franchisee must purchase and install before opening the Franchised Business Computer System to run a computer-based management system, including Franchisor's proprietary ordering and inventory management applications to assist in operating the Franchised Business. These systems will generate or store data such as customer data, labor data, financial information, and transaction details.

**Section 9.15 Upgrades of Franchised Business.** Franchisor may require Franchisee to upgrade the Franchised Business to conform to changes in the System Standards, which may include new signage, image, décor, equipment, technology and image standards. Franchisor will not require any such upgrade within two (2) years before the expiration date of the initial term or any renewal term. Franchisor may encourage Franchisee at any time to make a voluntary upgrade because of economic circumstances, competition, technological advances, brand imaging opportunities, or other compelling events or circumstances. Franchisee's voluntary agreement to perform an upgrade in those cases will not constitute a required upgrade under this paragraph.

**Section 9.16 Material Contracts.** Franchisee must timely comply with its obligations under the Lease and any note, indebtedness, mortgage, deed of trust, security deed, equipment lease, supply agreement, utility contract, service agreement and other material contracts ("**Material Contracts**") applicable to it or the Franchised Business and necessary to operate the Franchised Business in compliance with System Standards. Franchisee shall furnish to Franchisor, within ten (10) days after receipt, a copy of all notices, letters, warnings, or any other communications from the counterparty of any Material Contract regarding any default under or termination of any Material Contract. Franchisee must furnish a copy of any amendment, modification, replacement or supplement to the Lease.

**Section 9.17 Maintain Working Capital.** During the term of this Agreement, Franchisee agrees to maintain at all times sufficient working capital for the Franchised Business to enable Franchisee to properly and fully carry out and perform all of its duties, obligations and responsibilities hereunder and to operate the Franchised Business in a proper, efficient and effective manner.

**Section 9.18 Customer Relations.** Franchisee agrees to maintain at all times a sufficient number of adequately trained personnel to service all Program Customers of the Franchised Business. Franchisee further agrees to ensure that at all times prompt, courteous and efficient service is accorded to Program Customers of the Franchised Business and to adhere to the highest

standards of honesty, integrity, fair dealing and ethical conduct in all dealings with Franchisee's personnel, Program Customers and suppliers.

### **Section 9.19 Local Advertising.**

(a) Franchisee shall use its best efforts to promote and increase the demand for the goods and services of the Franchised Business through local advertising and promotion in Franchisee's market area. Franchisee shall expend in each year during the Term a minimum of three percent (3%) of Gross Sales on local advertising and promotion which shall include without limitation the placement of advertisements in local newspapers serving the Territory and on-site presentations and demonstrations to target customer groups, hospitals and other health care facilities and senior care homes.

(b) Local marketing and promotional expenses include the cost of direct mail solicitations, public relations activities, community events and sponsorships, newspaper advertisements, telephone book listings and advertisements, and other distributed promotional materials. Local marketing and promotional expenses do not include amounts spent on sign rental, paper products, or food items which may contain one or more of the Marks. Franchisee will conduct all marketing and promotional activities that use the Marks or refer to the Franchised Business in a dignified manner and in compliance with the System Standards and requirements Franchisor specifies. Franchisee will submit for Franchisor's approval samples of all advertising and promotional materials that it wishes to use at least thirty (30) days before making any financial commitment to use the materials. Franchisor will provide notice of any objections to the proposed materials within ten (10) days after its receipt. If Franchisee fails to discontinue the use of any unapproved materials within five (5) days after notice from Franchisor, Franchisor may enter the Franchised Business, remove any unapproved materials and hold the materials for proper disposition.

(c) If any applicable local newspaper or directory serving the Territory also services the territory or territories of one or more other Heart to Home Meals franchisees, Franchisor shall have the right to require that Franchisee and such other franchisees jointly place an advertisement in such newspaper or other directory, whether by electronic means or otherwise, which advertisement shall contain information pertaining to the Heart to Home Meals Business of each such franchisee. The cost of any such advertisement shall be borne equally by Franchisee and such other franchisees.

(d) All advertising and promotion conducted by Franchisee shall be completely factual and shall conform to the highest standards of ethical advertising. Franchisee shall submit any proposed advertisement or promotional material to Franchisor for its written approval, prior to use thereof by Franchisee, and Franchisee will not engage in any unapproved marketing or promotion of the Franchised Business

(e) Within thirty (30) days of the end of each calendar year, or at such other time or times as reasonably required by Franchisor, Franchisee shall provide to Franchisor such evidence or proof of its expenditures on local advertising and promotion conducted during the immediately preceding calendar year. If Franchisor reviews the financial reports and determines that Franchisee is spending less than 3% of Gross Sales on local marketing activities, then

Franchisor may require Franchisee to submit to Franchisor a marketing plan and budget acceptable to Franchisor demonstrating its plan to meet this local marketing spending obligation within thirty (30) days after Franchisor sends its request for the plan and budget. Franchisee's failure to submit the plan and budget as and when requested, and then spend to the approved budget, will be a material breach of this Agreement.

(f) Franchisor may, in its sole discretion, establish special promotional campaigns applicable to the System as a whole or to specific advertising market areas. Franchisee shall, at its sole cost and expense, participate in any such promotional campaigns which may include the purchase, lease, installation and/or use of cards, posters, banners, signs, photography or give-away items. Franchisor may, in its sole discretion, provide funding to support a campaign, including funding from the Marketing Fund, based on its analysis of the relevant markets.

**Section 9.20 Internet Advertising.** Franchisee acknowledges and agrees that it shall not establish or create a website on the internet or have any other internet or social media presence in connection with the Franchised Business, without the express written consent of Franchisor, which consent may be given or withheld in the sole discretion of Franchisor.

**Section 9.21 The Marketing Fund.** Franchisee acknowledges and agrees that the Marketing Fund is intended to maximize general public recognition and patronage of Heart to Home Meals businesses for the benefit of all franchisees in the System and Franchisor undertakes no obligation in administering the Marketing Fund to ensure that any particular franchisee, including Franchisee, benefits directly or pro-rata from the placement or conduct of such advertising and promotion.

**Section 9.22 Gift Cards.** Franchisee shall participate in promotional programs Franchisor develops for the System in the manner directed in the Manual or otherwise in writing. Additionally, Franchisor may sell or otherwise issue gift cards or certificates (together, "Gift Cards") that have been prepared utilizing the standard form of Gift Card Franchisor provides or designates. Franchisee shall fully honor all Gift Cards that are in the form Franchisor provides or approves, regardless of whether a Gift Card was issued by Franchisor or another sponsor. Franchisee will sell, issue and redeem Gift Cards in compliance with procedures and policies Franchisor specifies in the Manual or otherwise in writing, including those relating to procedures by which Franchisee shall request reimbursement for Gift Cards issued by other System Franchised Businesses and for making timely payment to Franchisor or other franchisees of Gift Cards issued from your Franchised Business honored elsewhere.

## **ARTICLE X ASSIGNMENT**

**Section 10.01 Assignment by Franchisor.** Franchisee is not the third-party beneficiary of any contract with a third party to provide services to it under this Agreement, but Franchisor is responsible for the performance of all of its obligations to Franchisee under this Agreement. Franchisor may assign, delegate, subcontract, or transfer any or all of its rights arising from this Agreement, including by operation of law, without notice and without Franchisee's consent, provided that the assignee agrees in writing to assume all obligations undertaken by Franchisor herein relating to the rights so assigned. Franchisor sell or assign any or all of its assets, including

without limitation the System and the Marks, or it may dissolve, terminate and wind up the business under applicable law but will transfer the System and this Agreement to a party that will perform Franchisor's obligations and that will assume this Agreement in writing, without further liability or obligation to Franchisee after notice that the transferee has assumed Franchisor's obligations under this Agreement. Upon such assignment and assumption, Franchisor shall be relieved of all further liability hereunder.

#### **Section 10.02 Transfer by Franchisee.**

(a) The franchise and license granted under this Agreement are personal to Franchisee (and the Owners and Guarantors if Franchisee is an entity). Franchisor is relying on Franchisee's experience, skill and financial resources (and that of the Owners and the Guarantors, if any) to sign this Agreement with Franchisee. Therefore, during the term of this Agreement, Franchisee shall not engage in a transaction that is a "**Transfer**" without first obtaining Franchisor's written consent and following the procedures set forth in this Agreement, except as expressly permitted under this Agreement. A Transfer is (i) an assignment of this Agreement or delegation of any of Franchisee's rights and obligations under this Agreement, (ii) grant of a security interest in, pledge of, lien or encumbrance on this Agreement, (iii) a change in ownership of an equity interest, or any issuance of additional equity interests to new persons or entities not listed on Attachment A to this Agreement, or any transaction among Franchisee's existing Owners that results in a change in control over Franchisee's equity interests; (iv) any merger, consolidation or sale of substantially all assets of Franchisee if it is an entity, (v) any sale or lease of the Franchised Program Meals Business, or a sale of the Premises if Franchisee is the owner, or any eviction, detainer, foreclosure or deed in lieu of foreclosure that results in the loss of possession of and control over the Premises, (vi) any delegation of management rights or responsibilities of the Franchised Business, or (vii) any distribution, gift or donation of any interest in the Franchised Program Meals Business, whether directly or indirectly. any of Franchisee's right and interest hereunder or in any assets of the Franchised Business, nor Franchisor's consent may be withheld or condition in its sole discretion.

(b) Any actual or purported Transfer without Franchisor's prior written consent shall be a material default of this Agreement and shall be null and void.

(c) If Franchisee desires to Transfer, Franchisee shall submit to Franchisor a copy of the offer relating to the proposed Transfer, information relating to the character and business background and experience of the proposed transferee and such other information as Franchisor may require. Franchisee agrees that Franchisor shall not be under any obligation whatsoever to consider any proposed Transfer by Franchisee if (i) Franchisee or any Guarantor hereto is in default of any of the provisions of this Agreement or any other agreement with Franchisor or any Affiliate, or (ii) the offer relating to the proposed Transfer contains any conditions preventing the offer from becoming a binding agreement, other than for the conditions that the consent of Franchisor and the consent of the landlord of the Premises (if required) to the Transfer must be obtained.

(d) Any proposed Transfer shall be effective only if all conditions imposed by Franchisor are complied with. In exercising its discretion to grant or withhold consent, Franchisor will consider, among other things, the qualifications, apparent ability and credit standing of the

proposed transferee. In addition, Franchisor shall be entitled to require as conditions precedent to the granting of its consent that:

(i) there shall be no existing default in the performance or observance of any of Franchisee's obligations under this or any other agreement between Franchisee and Franchisor or its Affiliates or with any supplier of the Franchised Business;

(ii) Franchisee shall have satisfied all monetary obligations then due and owing and settled all outstanding accounts with Franchisor, its Affiliates and all trade creditors of the Franchised Business;

(iii) Franchisee and each of the Guarantors shall have delivered to Franchisor a complete general release of their claims against Franchisor, its Affiliates and their respective equity owners, directors, and officers, in form prescribed by Franchisor which release shall exclude therefrom any rights under or claims that Franchisee and the Guarantors may have under applicable franchise law;

(iv) the proposed transferee and its Owners (1) must satisfy all the requirements and conditions then being used to qualify as a new franchisee; (2) must comply with Section 10.08; (3) execute and deliver a written assignment, assuming and agreeing to discharge all of Franchisee's obligations under this Agreement or, at the option of Franchisor, shall enter into Franchisor's then-current form of franchise agreement and all other agreements then being required by Franchisor in the grant of franchises;

(v) the proposed transferee and its Owners shall have agreed to complete forthwith following completion of the Transfer, all such maintenance, replacement, refurbishing, renovating and remodeling of the Premises and the Equipment and Furnishings as Franchisor reasonably requires to satisfy the System Standards then in effect for new entrants;

(vi) if required by Franchisor, the proposed transferee shall have paid to Franchisor the then-current cost of providing training and shall have satisfactorily completed Franchisor's training program then in effect for all new entrant franchisees; and

(vii) Franchisee shall have paid to Franchisor a transfer fee in an amount equal to fifty percent (50%) of the then-current initial franchise fee charged generally by Franchisor for new franchises.

(e) Franchisee must pay Franchisor a transfer fee equal to fifty percent (50%) then-current initial franchise fee charged by Franchisor for new franchisees if Franchisee Transfers this Agreement or the Franchised Business, or in the event of an ownership change (a "**Control Change**") involving Control of 50% or more of Franchisee's equity interests, or effective Control over the management of your business by modification of your Core Agreement (defined below).

(f) A proposed transferee is not eligible for consideration if the transferee or any of its owners has had a Franchise Agreement with Franchisor or any affiliated franchise system terminated for cause, is affiliated with a competitor, or would be in breach of Section 12.02 immediately upon closing of the transaction. However, a Transfer that is (1) an initial transfer of the Franchised Business and this Agreement from an individual to an entity owned by the

individual, or (2) other than a Control Change, a conveyance of the equity interests conveyed by any of the Owners and Guarantors listed on Schedule B to any of the other Guarantors listed on Schedule B or any member of their immediate family does not require Franchisor's consent or payment of a transfer fee. Franchisor will waive the transfer fee if the Control Change results from conveyance of the equity interests between the persons listed on Schedule B so long as Franchisee obtains Franchisor's consent prior to executing the transaction. Franchisor may withhold or condition its consent to such a transaction among existing equity Owners and Guarantors in its sole discretion. If Franchisee is an individual, then in the event of your death, permanent disability or appointment of a guardian for you, this Agreement will terminate ninety (90) days after your death, permanent disability or appointment of a guardian unless Franchisor gives its consent within that 90-day period to the assignment of this Agreement to a successor in compliance with this paragraph. Franchisee will notify Franchisor in writing of any change in the information stated on Schedule B before or within ten (10) days after such events. If Franchisor's consent and the transfer procedures stated above are not required, Franchisor will produce and send to Franchisee a revised Schedule B that will be a unilateral amendment to this Agreement not requiring your signature to be effective.

**Section 10.03 Franchisor's Disclosure of Franchisee Information.** Franchisee agrees that Franchisor may, in its sole discretion, provide a proposed transferee with any information in Franchisor's possession relating to the Franchised Business, the results of inspections and audits, sales and expense information and information relating to customer relations.

**Section 10.04 Right of First Refusal.** Notwithstanding the provisions of Section 10.02 hereof, prior to the Transfer of any interest that constitutes Control (the "**Offered Interest**"), if Franchisee shall at any time receive a bona fide offer from a third party to purchase substantially all of the assets of the Franchised Business or the membership interests or shares in the capital of Franchisee, Franchisee shall submit to Franchisor a copy of the offer relating to the proposed Transfer and the name and address of the proposed purchaser or transferee, the proposed purchase price, and all other terms and conditions of the proposed Transfer of the Offered Interest. In addition, Franchisee must deliver to Franchisor a copy of the proposed purchase agreement, if any, and all other agreements and instruments signed and to be signed in the transaction, and copies or electronic access to all diligence, offering and other materials furnished to the proposed purchaser as part of the selling process. Within thirty (30) days after Franchisor receives the foregoing notice and materials, it will have the right and option, but not the obligation, exercisable by written notice to Franchisee, to acquire the Offered Interest for the price and on the same terms and conditions as contemplated by the third party, provided that Franchisor may substitute cash for any form of payment proposed in such offer. If Franchisor declines or fails to send notice of its intent to acquire the Offered Interest within the thirty-day period, Franchisee may complete the sale of the Franchised Business to such purchaser as long as the terms and conditions of Transfer stay identical to those as originally disclosed to Franchisor, subject to the provisions of Section 10.02 hereof. If the Transfer to such purchaser is not completed within one hundred and twenty (120) days after delivery of such offer to Franchisor, Franchisor shall again have the right of first refusal herein provided.

Franchisor's failure to exercise its right of first refusal will not constitute a waiver of any other provision of this Agreement, or its right of first refusal as to any subsequent proposed Transfer. Any material change in the terms of the proposed Transfer prior to closing will constitute



a new Transfer, subject to the same right of first refusal by Franchisor as for the initial Transfer. Any Transfer attempted without first giving Franchisor the right of first refusal specified in this Article X will render the attempted Transfer null and void. Franchisor may utilize the remedy of specific performance to enforce this right.

#### **Section 10.05 Death/Disability.**

(a) In the event of the death or permanent disability of the Franchisee, if an individual, or a Guarantor, or the appointment of a permanent guardian or conservator to manage the Franchisee's or the Guarantor's affairs, except the last Guarantor to die or become permanently disabled (the "**Disabled Party**"), the trustee, conservator, guardian, personal representative, or executor of the estate shall within ninety (90) days of the occurrence of such death or permanent disability sell to the surviving Guarantors all of the Disabled Party's equity interests in Franchisee, for such price and upon such other terms and conditions as may be agreed upon by the parties. Franchisee will notify Franchisor in writing of any change in the information stated on Schedule B before or within ten (10) days after such events.

(b) If the Disabled Party was the Owner-Operator, then Franchisor may treat the personal representative, trustee or conservator as the Owner-Operator until Franchisee appoints someone else as Owner-Operator.

(c) In the event of the death or permanent disability of the last of the Guarantors to die or become so disabled, or where there is only one Guarantor, then upon the Guarantor's death or permanent disability, Franchisee shall, within ninety (90) days of the occurrence of such death or disability, Transfer all of its right, title and interest in and to this Agreement, the Lease and the property and assets used in the Franchised Business, or the Owner's equity interests, to another person acceptable to Franchisor. Such Transfer shall comply with the terms and conditions of Section 10.02 hereof.

(d) Any failure to commence administration of the decedent's estate within ninety (90) days after death or any distribution of the decedent's equity interest in the Franchisee entity without Franchisor's consent if such distribution operates as a Transfer and Franchisor's consent is required under this Agreement, is a material breach of this Agreement.

(e) If the Transfer of the Franchised Business to a person acceptable to Franchisor has not taken place within ninety (90) days as required by Section 10.04, Franchisor shall thereafter have the continuing option, exercisable upon ten (10) days' Notice to the Disabled Party or the Disabled Person's estate, of terminating this Agreement for breach and the franchise herein granted. If Franchisor so elects, the provisions of Article XI shall apply.

**Section 10.06 Temporary Disability and Deemed Disability.** If a physician, court or administrative agency determines that an Owner-Operator or a Guarantor owning a controlling interest in Franchisee has become temporarily disabled and incompetent to manage his or her own affairs, Franchisor has the right to require that a different Owner-Operator be appointed until the Guarantor's permanent status is determined. Franchisor may require that the Guarantor's equity interest be transferred to a third party acceptable to Franchisor following the assignment conditions

and procedures in this Agreement if the temporary disability does not resolve within six (6) months after the temporary disability is determined.

For the purposes of Section 10.04 hereof, a person shall be deemed to be permanently disabled if his normal participation in the Franchised Business is for any reason curtailed by reason of mental or physical disability for a cumulative period of ninety (90) days in any twelve (12) month period during the term of this Agreement.

**Section 10.07 No Security Interest.** Neither this Agreement nor any of the rights conferred on Franchisee hereunder nor any interest in Franchisee shall be retained by Franchisee or the Guarantors as security for the payment or performance of any obligations that may arise by reason of any Transfer.

**Section 10.08 Business Entity Franchisee.** If Franchisee constitutes a business entity, each of its Owners must execute the Guaranty Agreement attached as Schedule F. Franchisee's certificate of incorporation, shareholders' agreement, partnership agreement, trust agreement, operating agreement, or other similar agreement (a "**Core Agreement**") must provide that the purpose will consist only in the development, ownership, operation and maintenance of Heart to Home Meals Business as a franchisee. The Core Agreement must prohibit the issuance of any additional equity ownership interests or the transfer, assignment or pledge of any issued equity ownership interests without Franchisor's consent and must provide that each certificate or document issued to evidence any equity ownership interest will contain a legend disclosing the foregoing restriction. In giving consent under Section 10.02 to any issuance or Transfer of Franchisee's equity interests, Franchisor may in its discretion impose one or more conditions, including (without limitation) the requirement that the individual beneficial owner of the equity ownership interest execute the form of Guaranty Agreement attached as Schedule F or a supplement to the original such Agreement acceptable to Franchisor in form and substance adding such person as a guarantor. Franchisee must deliver to Franchisor the documents demonstrating compliance with this Section when Franchisor so requests.

**Section 10.09 Securities Offerings.** If Franchisee intends to engage in a public or private offering of its equity interests, then it must submit for Franchisor's review its offering materials or prospectus before it files the document or commences its use. No offering by Franchisee or any Affiliate shall imply (by use of the Marks or otherwise) that Franchisor is participating in an underwriting, issuance or offering of Franchisee's securities or those of Affiliates. Franchisor's review of any offering material shall be limited solely to the relationship between the parties (and any Affiliates, if applicable), an accurate description of the System, and the absence of any disclosure of confidential information about Franchisor or the System. Franchisor may, at its option, require that the offering materials make a written statement it prescribes about the limitations stated in the preceding sentence. Franchisee's indemnification obligations in Section 14.01 include claims relating to its securities offering, disclosure materials and compliance with applicable laws and regulations. For each proposed offering, Franchisee shall pay Franchisor a non-refundable fee of Fifteen Thousand Dollars (\$15,000) or such greater amount as is necessary to reimburse Franchisor for its reasonable costs and expenses (including legal and accounting fees) for reviewing the proposed offering materials. Franchisee must submit the offering materials for Franchisor's review at least thirty (30) days in advance of the anticipated filing or release date.

Any such offering shall be subject to Franchisor's approval as to the structure and voting control of the offeror (and Franchisee, if it is not the offeror) after the financing is completed.

## **ARTICLE XI TERMINATION**

**Section 11.01 Events of Default.** This Agreement and the rights of Franchisee hereunder may, at the option of Franchisor, be terminated upon the occurrence of any of the following events, such termination to be effective immediately upon receipt of Notice to that effect by Franchisee:

- (a) if Franchisee fails to pay when due any amount owing to Franchisor, its Affiliates or any supplier to the Franchised Business, whether pursuant to this Agreement or otherwise, and such default continues for a period of fifteen (15) days;
- (b) if Franchisee fails to observe or perform any of its other obligations on its part contained herein or in any other agreement or undertaking entered into or made in favor of Franchisor or any of its Affiliates, and such default is not remedied within fifteen (15) days of receipt of Notice from Franchisor;
- (c) if Franchisee fails in any year during the Term to meet the Sales Target;
- (d) if Franchisee fails to furnish reports, financial statements, tax returns, or any other documentation required by this Agreement at the time specified therefore and such breach is not remedied within fifteen (15) days of receipt of Notice from Franchisor to remedy such breach;
- (e) if Franchisee fails to observe or perform any of the rules, bulletins, directives or other notices set forth in the Manual and any such failure to observe or perform is not remedied within fifteen (15) days of receipt of Notice from Franchisor;
- (f) if Franchisee loses the right to possession of the Premises or the Lease is terminated as a result of the default of Franchisee;
- (g) if the Guarantor designated as Owner-Operator of the Franchised Business fails to satisfactorily complete all required training for the operation of the Franchised Business;
- (h) if Franchisee or any Guarantor purports to Transfer any property without fully complying with the requirements of Section 10.02 hereof;
- (i) if Franchisee operates the Franchised Business in a manner that presents a health hazard to its Program Customers, employees or to the public and such manner of operation continues uncorrected after Notice from Franchisor;
- (j) if Franchisee maintains false books or records, including tax records;
- (k) if Franchisee engages in any conduct or practice which, in the sole discretion of Franchisor, reflects unfavorably upon or is detrimental to the Marks, to the good name, goodwill or reputation of Franchisor or to the business reputation or goodwill of its

franchisees or the System generally and Franchisee fails to cease such conduct or practice within five (5) days from receipt of Notice thereof from Franchisor;

(l) if Franchisee has received from Franchisor during any consecutive twelve (12) month period, three (3) or more Notices relating to a default hereunder (whether such Notices relate to the same or different defaults and whether or not such defaults have been remedied by Franchisee);

(m) if Franchisee or any of its Guarantors (i) request the appointment of a receiver or have a receiver appointed for the Franchised Business, Franchisee or any of its or their assets; (ii) become insolvent or make a general assignment for the benefit of its or their creditors; (iii) commit an act of bankruptcy, become insolvent or make a proposal to its creditors or commence a case for relief or have an order for relief entered for it or them under the within the meaning of the United States Bankruptcy Code (or any successor legislation thereto); (iv) if a petition in bankruptcy is filed against Franchisee and is not discharged or disputed bona fide within three (3) days of such filing or if a receiver or other custodian (permanent or temporary) of the Franchised Business or any part thereof is appointed by private instrument or by court order; or (v) if an execution or similar process is levied against any of the assets of Franchisee, or if distress or other analogous process is made against any of the assets of Franchisee or any steps are taken to wind up or dissolve Franchisee; or

(n) if Franchisee ceases or threatens to cease or takes any steps to cease the operation of the Franchised Business;

(o) if Franchisee closes or abandons the Franchised Business for a period of three (3) or more days in any seven (7) day period except for any remodeling or vacation Franchisor approves in advance;

(p) if Franchisee or any of its Guarantors suffer a conviction for, or plead guilty or nolo contendere to a crime involving moral turpitude or any other offense reasonably likely, in the sole discretion of Franchisor, reflects unfavorably upon or is detrimental to the Marks, to the good name, goodwill or reputation of Franchisor or to the business reputation or goodwill of its franchisees or the System generally in Franchisor's opinion;

(q) Franchisor discovers a material inaccuracy in any of Franchisee's representations in this Agreement or in any application submitted to Franchisor to become a franchisee;

(r) if Franchisee commits a breach which, by its nature, cannot be cured or with regard to which Franchisee notifies Franchisor that it does not intend to cure.

(s) if Franchisee fails to (1) gain Franchisor's acceptance of the proposed Premises, (2) sign a lease or a purchase agreement Franchisor approves for the accepted Premises within the timeframe specified in this Agreement, or (3) complete and open the Franchised Business within timeframe specified in this Agreement.

**Section 11.02 Franchisee Termination.** If Franchisor substantially fails to perform any of its material obligations to Franchisee under this Agreement, Franchisee must give written notice

of non-performance and at least 60 days to cure the failure. If the failure continues at the end of such 60-day cure period, Franchisee may terminate this Agreement on written notice to Franchisor delivered at any time before Franchisor cures the failure. Franchisee may not withhold the payment of any fees due under this Agreement during the pendency of cure period, and any payment by Franchisee of fees accruing after the expiration of the cure period will be deemed a waiver of Franchisor default by Franchisee.

**Section 11.03 Termination by Franchisor for Commercial Impracticability.** The parties agree that the commercial purpose of this Agreement is for Franchisor to license the System specified by Franchisor to Franchisee for use in operating the Franchised Business strictly in accordance with the Manual, in exchange for payment of the fees and under the conditions set forth in this Agreement. This Agreement intends for Franchisee to control the terms and conditions of employment for the employees of the Franchised Business, and to supervise such employees as their employer, as set forth in Section 9.02, without constituting Franchisor as a joint employer of Franchisee or Franchisee's employees. Franchisee acknowledges Franchisor is not in the business of owning and operating any Franchised Business, and Franchisee has independently decided to enter into this Agreement to obtain the right to use the System so as to enter into the trade and business contemplated by the System. Franchisor may terminate this Agreement by written notice to Franchisee without penalty and without payment of any refunds or damages to Franchisee, and Franchisee will follow its post-termination obligations under Section 11.04 at its expense, if Franchisor determines in its sole discretion that either (i) a law or regulation is enacted, promulgated, repealed, modified or amended; (ii) a judicial or administrative tribunal or administrative agency has issued, published or released a decision, ruling or opinion in a matter not involving the parties directly or indirectly that Franchisor reasonably expects will affect applicable law or its interpretation; or (iii) an administrative agency, arbitrator or judge has issued an interim or final decision in a matter in which the parties are involved directly or indirectly, which (A) frustrates or adversely affects or could reasonably be expected to affect adversely the purposes of this Agreement, (B) makes performance of this Agreement commercially impracticable, (C) effectively modifies the allocation of risk, benefits and burdens agreed by the parties, (D) deprives any party of its benefits of the bargain struck by the parties, as originally set forth in this Agreement, or (E) determines that an employment or a joint employment relationship exists between Franchisor and Franchisee, or between Franchisor and the employees of Franchisee.

**Section 11.04 Obligations On Termination.**

(a) Upon the expiration or termination of this Agreement for any reason all rights of Franchisee hereunder shall be at an end and Franchisee shall immediately cease to use the System, the Manual, and the Marks, by advertising or otherwise and shall remove the Marks from all signs, slogans, symbols, letterhead and all other documents or forms, emblems, and displays of whatever character in the possession of or under the control of Franchisee identifying it as associated with the System. Franchisee shall return to Franchisor all signage, advertising materials, all copies of the Manual and other proprietary materials delivered under this Agreement and any other items imprinted with any of the Marks which are in the possession of, or under the control of, Franchisee.

(b) If Franchisor elects not to take an assignment of the Lease, as contemplated in Section 10.04, Franchisee shall discontinue all use of the Marks at the Premises and shall, at

Franchisee's expense make such modifications to the interior and exterior design and décor of the Premises and make any and all changes in signs, buildings and structures which Franchisor requires to distinguish the building from its former appearance and to de-identify the Premises as a Heart to Home Meals Business.

(c) Moreover, upon the expiration or termination of this Agreement for any reason, Franchisee will (a) abide by the non-competition and confidentiality provisions contained in Article XII of this Agreement; (b) promptly pay Franchisor and its Affiliates all amounts then due; (c) cease to hold yourself out in any way as a franchisee or to do anything which would indicate any relationship between Franchisee and Franchisor, except pursuant to the terms of a separate agreement with Franchisor; and (d) transfer to Franchisor all telephone listings, domain names, and web pages for the Franchised Business or which contain, use or display any of the Marks or intellectual property. Franchisee shall cease using the Marks in its fictitious name filing and shall cancel such filing with each jurisdiction in which it is registered. Franchisee shall execute such documents and take such action as Franchisor may deem necessary or advisable to evidence the fact that Franchisee has ceased use of the Marks and has no further interest or right thereunder.

(d) Franchisee will complete all modifications within thirty (30) days after the termination or expiration of this Agreement. If Franchisee fails to complete such modifications or fail to transfer or return such property within thirty (30) days as contemplated above in this Section, or should it indicate at such time earlier than thirty (30) days that it does not intend or is unable to comply with this Section, Franchisee appoints Franchisor as its attorney-in-fact to perform such acts in its stead and for its account. Franchisee will reimburse Franchisor for all of its costs and expenses, including without limitation administrative overhead and employee salaries that it may incur in acting as Franchisee's attorney-in-fact to perform such acts.

(e) Upon the expiration or termination of this Agreement for any reason, Franchisor may purchase Program Meals or other products in Franchisee's possession that are resaleable for the current wholesale price less the Restocking Fees and Charges.

**Section 11.05 Option to Purchase.** For a period of thirty (30) days following the termination or expiration of this Agreement, Franchisor shall have the option, exercisable by Notice to that effect to Franchisee, to purchase all Equipment and Furnishings, leasehold improvements, inventory and supplies owned and used by Franchisee in connection with the operation of the Franchised Business at a price equal to the lesser of the book value and the fair market value of the property in question. Such purchase price shall not, however, contain any factor or increment for goodwill or other intangibles and Franchisor may exclude from the assets purchased hereunder any Equipment and Furnishings, leasehold improvements, inventory and supplies which, in the opinion of Franchisor, are obsolete, damaged or otherwise not in marketable or usable condition. If the parties cannot agree upon the fair market value of such assets within a period of ten (10) business days following the exercise of the option by Franchisor, an independent appraiser shall be designated by Franchisor and its determination of the fair market value shall be binding on Franchisor and Franchisee and no appeal shall lie therefrom. If Franchisor elects to exercise its option to purchase, it shall be entitled to set off against the purchase price all amounts owing by Franchisee to Franchisor or any of its Affiliates under this or any other agreement and the cost of any appraisal. If Franchisor exercises its option to purchase, the transaction of purchase

and sale shall be closed on a date to be determined by Franchisor and shall be completed in accordance with all applicable laws to avoid claims of Franchisee's creditors. Franchisee shall deliver against payment of the purchase price a bill of sale with the usual covenants as to title, together with such other documents as may be necessary or desirable, in the reasonable opinion of Franchisor, to complete the transaction of purchase and sale.

**Section 11.06 Assignment of Lease.** Franchisee shall, at the option of Franchisor, assign to Franchisor all of Franchisee's right, title and interest in and to the Lease. Concurrently with such assignment, Franchisee shall pay to the landlord thereof all amounts owing by Franchisee on account of rent and other charges payable under the Lease to the effective date of such assignment.

**Section 11.07 Right of Entry.** Forthwith upon the expiration or termination of this Agreement, Franchisor may enter upon, occupy and use all or any part of the Premises which are subject to a Lease and any Equipment and Furnishings and other property and assets located in, on or about such Premises and used in connection with the operation of the Franchised Business. Franchisor shall not be liable for any trespass or neglect in so doing or in respect of any depreciation or damages in connection with such action. All revenues, monies, profits, benefits and advantages derived from the management and operation of the Franchised Business throughout Franchisor's period of occupation shall be for the exclusive account of Franchisor, and Franchisor shall pay and discharge all debts and liabilities incurred by it during the period of its occupation. In addition, Franchisor shall have the option, but not the obligation, to pay all claims owing by Franchisee to any creditor of the Franchised Business and any amount so paid shall be chargeable to Franchisee and shall be paid by Franchisee to Franchisor forthwith upon demand. Franchisor shall not have any obligation to retain any employee of the Franchised Business or to honor any contractual commitments previously made by Franchisee in connection therewith and any liability with respect thereto shall be exclusively borne and paid for by Franchisee. If Franchisor elects to retain any employee, such employment shall be pursuant to a new employment agreement between Franchisor and such employee. Any claim of such employee for unpaid salary, vacation pay or other benefits arising from his employment with Franchisee shall be the exclusive responsibility of and be paid solely by Franchisee.

**Section 11.08 Settlement of Accounts.** Upon the earlier of sixty (60) days after the expiration or termination of this Agreement and the closing of a transaction of purchase and sale contemplated in Section 10.03 hereof, there shall be an accounting between Franchisee and Franchisor and its Affiliates with respect to any monies due by each to the other under this or any other agreement and each of the parties agrees to promptly pay to the other, by certified check or bank draft, whatever monies shall be found to be owing. If this Agreement has been terminated as a result of the default of Franchisee, Franchisee shall pay to Franchisor all costs and expenses (including legal fees) incurred by Franchisor as a result of such default and Franchisor may set off an amount equal to such costs and expenses from any amount owing by Franchisor to Franchisee pursuant to the aforesaid accounting.

**Section 11.09 Transfer of Listings and Accounts.** The parties agree that following termination or expiration of this Agreement, all interest in and rights to use all telephone and facsimile numbers, all listings and email addresses and all social media accounts (collectively "listings and accounts") used by Franchisee in any manner related to the operation of, or applicable to, the Franchised Business shall be transferred to or vested in Franchisor and Franchisor shall

thereupon have the full and exclusive right to use such listings and accounts or to authorize the use thereof by another franchisee of Franchisor. Franchisee hereby appoints Franchisor as its attorney in fact to direct the telephone company and all listing agencies to transfer such listings and accounts to Franchisor or as it may in writing direct. Any amounts owing by Franchisee on account of such listings and accounts shall be paid forthwith by Franchisee.

## **ARTICLE XII RESTRICTIVE COVENANTS**

**Section 12.01 Confidentiality.** Franchisee and the Guarantors acknowledge that in connection with the operation of the Franchised Business, Franchisor will be disclosing to them certain confidential information and trade secrets, including the Manual, of Franchisor and its Affiliates. Franchisee and each of the Guarantors each hereby (a) acknowledge and agree Franchisor owns all right, titles and interest in and to the confidential information; (b) acknowledge and agree the use or duplication of the confidential information in any other business would constitute an unfair method of competition with Franchisor and its franchisees; (c) acknowledge and agree they have no interest whatsoever in the System except the license in this Agreement; (d) agree that they will not, either directly or indirectly, use or divulge any such trade secrets or confidential information, except that during the term of this Agreement Franchisee may use such trade secrets and confidential information solely for the purpose of conducting the Franchised Business in accordance with the provisions of this Agreement and may divulge such trade secrets and confidential information to its employees, in circumstances of confidence and on a “need-to-know” basis to perform their jobs and only to the extent necessary to operate the Franchised Business. Franchisee agrees to take all appropriate actions to preserve the confidentiality of all confidential information and to use its reasonable best efforts to maintain and to cause its employees and agents to maintain the confidentiality of all such information and trade secrets. Franchisee agrees to obtain from the foregoing persons, upon request by Franchisor, written covenants, in form and terms prescribed from time to time by Franchisor, to maintain confidentiality.

Franchisee and each of the Guarantors will not use the System in any business or any capacity for the benefit of any person except as permitted under this Agreement or another written agreement with Franchisor. Franchisee will not permit copying of Confidential Information (including, as to computer software, any translation, decompiling, decoding, modification or other alteration of the source code of such software). Franchisee will use confidential information only for the Franchised Business and to perform under this Agreement. Upon termination (or earlier, as Franchisor may request), Franchisee shall return to Franchisor all originals and copies of the Manual, policy statements and Confidential Information “fixed in any tangible medium of expression,” within the meaning of the U.S. Copyright Act, as amended. Franchisee’s obligations under this subsection commence when its Guarantors sign this Agreement and continue for trade secrets (including computer software Franchisor may license to Franchisee) as long as they remain secret and for other Confidential Information, for as long as Franchisor continues to use the information in confidence, even if edited or revised, plus three (3) years. Franchisor will respond promptly and in good faith to Franchisee’s inquiry about continued protection of any confidential information.



**Section 12.02 Non-Competition During Term.** Franchisee will at all times faithfully, honestly and diligently perform its obligations hereunder and will continuously exert its best efforts to promote and enhance the Franchised Business. In addition, Franchisee and each of the Guarantors agree that none of them will during the term of this Agreement (without the prior written consent of Franchisor) directly or indirectly in any manner whatsoever or in any capacity whatever, carry on, be engaged in, be concerned with, be interested in, advise, lend money to, guarantee the debts or obligations of or permit any of their names or any part thereof, to be used or employed by any person who is engaged in, concerned with or interested in any business involving the preparation or home delivery of frozen prepared meals during the term of this Agreement.

**Section 12.03 Post-Term Non-Competition.** Franchisee and each of the Guarantors acknowledge that Franchisor's name, the Marks, the business reputation and the goodwill associated therewith, the methods and techniques employed by Franchisor, the training and instructions to be provided hereunder, the knowledge of the services and methods of Franchisor and the opportunities, associations and experiences established and acquired by Franchisee hereunder are of considerable value. Therefore, in the event of termination or expiration of this Agreement for any reason whatsoever, Franchisee and the Guarantors shall not (without prior written consent of Franchisor) at any time during the period of two (2) years from the date of such termination or expiration, either individually or in partnership or jointly or in conjunction with any person, as principal, agent, equity owner or in any other manner or capacity whatsoever, carry on, be engaged in, be concerned with or interested in or advise, lend money to, guarantee the debts or obligations of, or permit its name or any part thereof to be used or employed by any person engaged in or concerned with or interested in the development, operation, franchising or management of any business involving the preparation or home delivery of frozen prepared meals within the Territory or within the territory of any other Heart to Home Meals Business at the termination date of this Agreement.

The parties acknowledge and agree that if the foregoing covenant is determined by a court of competent jurisdiction to be unreasonable, whether as to the scope of the restriction, the geographic area of the restriction or the duration of the restriction, then such restriction shall be reduced to that which such court declares is reasonable.

**Section 12.04 Non-Solicitation.** Franchisee and each of the Guarantors agree that during the term of this Agreement and for a period of two (2) years thereafter, none of them will:

(a) attempt to obtain any unfair advantage over Franchisor, any franchisee of Franchisor, or any Affiliate thereof by soliciting for employment any person who is, at the time of such solicitation, employed by such other franchisee, Franchisor or such Affiliate, nor shall Franchisee or the Guarantors directly or indirectly induce any such person to leave his employment as aforesaid; or

(b) divert or attempt to divert any business or Program Customer of the Franchised Business to any other competitive establishment, by direct or indirect inducement or otherwise.

The parties agree that subsections (a) and (b) are independent of each other and are severable.

**Section 12.05 Waiver of Defenses.** Franchisee and each of the Guarantors agree that the restrictions contained in this Article XII are reasonable and necessary in order to protect the legitimate business interest of Franchisor and all defenses to the strict enforcement of such restrictions by Franchisor are hereby waived.

### **ARTICLE XIII GUARANTEE**

Each of the Guarantors hereby jointly, severally, irrevocably and unconditionally guarantees payment, observance and performance to Franchisor of all present and future obligations of any nature or kind owing by Franchisee to Franchisor or any of its Affiliates, whether direct or indirect, absolute or contingent, matured or unmatured, extended or renewed, wherever and however incurred, and whether Franchisee is bound alone or with others and whether as principal or as surety (such obligations being hereinafter called the “**Obligations**”). This Guarantee is a continuing guarantee of all the Obligations. Franchisor shall not be bound to exercise or exhaust its recourse against Franchisee or any other person, or against any other guarantees or any security it may at any time hold, before being entitled to full payment, observance and performance from the Guarantors of the Obligations. Each of the Guarantor’s liability to make payment, observance and performance of the Obligations under this Guarantee shall arise upon Franchisor making demand in writing of any Guarantor, and such demand shall be deemed to have been effectually made when an envelope containing such demand addressed to a Guarantor at his address last known to Franchisor is posted, postage prepaid.

Without in any way lessening the Guarantors’ liability under this Guarantee, and without obtaining the consent of or giving Notice to the Guarantors, Franchisor may discontinue, reduce, increase or otherwise vary the credit of Franchisee, may grant renewals, extensions, indulgences and releases to, and may accept from or otherwise deal with, Franchisee and others in such manner as Franchisor may see fit. Franchisor may apply all monies received from Franchisee or others or from securities or guarantees towards such part of the Obligations as Franchisor may in its sole discretion determine. The obligations of the Guarantors under this Guarantee shall not be released, discharged or in any way be affected by any change, alteration or modification of this Agreement or by the bankruptcy or insolvency of Franchisee, or by any other loss of capacity of Franchisee or by any other act or proceeding in relation to Franchisee or this or any other agreement or any other thing whereby the Guarantors might otherwise be released.

Until payment, observance and performance in full of the Obligations, the Guarantors shall not claim any set-off or counterclaim against Franchisee in respect of any liability of Franchisee to the Guarantors or claim or prove in the bankruptcy or insolvency of Franchisee in competition with Franchisor or have any right to be subrogated to Franchisor. All present and future debts and liabilities of Franchisee to the Guarantors are hereby postponed to the Obligations and all monies received by the Guarantors in respect thereof shall be received in trust for Franchisor and forthwith upon receipt shall be paid over to Franchisor, the whole without in any way lessening or limiting the liability of the Guarantors under this Guarantee. This postponement is independent of the Guarantee and shall remain in full force and effect until payment, observance and performance in

full to Franchisor of all of the Obligations is made, notwithstanding that the liability of the Guarantors under this Guarantee may have been terminated.

Neither Franchisee nor the Guarantors shall be bound by any representation, warranty, promise or other inducement made by any person relating to this Guarantee which is not expressly set out herein or in any documents delivered in connection herewith or contemplated hereby. Franchisor is not bound by any representations, warranties, promises or other inducements made by Franchisee to the Guarantors and execution of this Agreement by Franchisor shall be conclusive evidence against the Guarantors that this Agreement was not delivered in escrow or pursuant to any Agreement that it should not be effective until any condition precedent or subsequent has been met. This Guarantee shall not be discharged or affected by the death of any of the Guarantors.

#### **ARTICLE XIV GENERAL CONTRACT PROVISIONS**

**Section 14.01 Indemnity.** Franchisee and the Guarantors, jointly and severally agree, during and after the term of this Agreement, to indemnify and hold harmless Franchisor and its Affiliates and their respective officers, directors and shareholders (collectively the “**Indemnitees**”) from and against any and all loss, damage, liability, costs and expenses in connection therewith incurred by the Indemnitees or any of them as a result of any violation of this Agreement by or any act of omission or commission on the part of Franchisee or a Guarantor or any of their agents or employees and from all claims, damages, suits or rights arising from the operation of the Franchised Business.

**Section 14.02 Independent Contractor.** The relationship among the parties hereto is that of independent contractors and no fiduciary relationship, partnership, joint venture, agency or employment is created or intended to be created by this Agreement. Franchisee agrees that it has no authority to bind or to attempt to bind Franchisor in any manner or form whatsoever or to assume or to incur any obligation or responsibility, express or implied, for or on behalf of or in the name of Franchisor. Franchisee shall use its own name in all dealings with third parties to clearly indicate the independent ownership of the business and that Franchisee is acting on its own behalf and not on behalf of Franchisor. Neither party will have the authority to act or contract on behalf of the other. Neither party will have any responsibility for the obligations of the other party.

**Section 14.03 Reserved Rights.** Whenever Franchisor reserved in this Agreement a right to take or withhold an action, or is deemed to have a right and/or discretion to take or withhold an action, or to grant or decline to grant Franchisee a right to take or omit an action, except as otherwise expressly and specifically provided in this Agreement, Franchisor may make its decision or exercise its rights, on the basis of the information readily available to Franchisor and its judgment of what is in its best interests and/or in the best interests of the its franchise network, at the time the decision is made, without regard to whether: (i) other reasonable alternative decisions or actions could have been made by Franchisor; (ii) Franchisor’s decision or action will promote its financial or other individual interest; (iii) Franchisor’s decision or the action it takes applies differently to Franchisee and one or more other franchisees or its company-owned operations; or (iv) Franchisor’s decision or the exercise of its right or discretion is adverse to Franchisee’s interests. In the absence of an applicable statute, Franchisor will have no liability to Franchisee for any such decision or action. Franchisor and Franchisee intend that the exercise of Franchisor’s

right or discretion will not be subject to limitation or review. If applicable law implies a covenant of good faith and fair dealing in this Agreement, the parties acknowledge that such covenant shall not imply any rights or obligations that are inconsistent with a fair construction of this Agreement and that this Agreement grants Franchisor the right to make decisions, take actions and/or refrain from taking actions not inconsistent with Franchisee's rights and obligations hereunder.

**Section 14.04 Reasonable Business Judgment.** Franchisor and Franchisee agree that Franchisor may use its Reasonable Business Judgment in the exercise of its rights, obligations and discretion under this Agreement except where otherwise indicated. “**Reasonable Business Judgment**” means that Franchisor's determination shall prevail even in cases where other alternatives are also reasonable so long as it intends to benefit or its actions or omissions could benefit the System. Examples of benefits to the System would include, without limitation, protecting or enhancing the value of the Marks, promoting economic efficiency or gain for the System or the Franchised Businesses, increasing customer satisfaction, increasing brand identification, or minimizing possible customer brand or location confusion. Franchisor shall not be required to consider Franchisee's particular economic or other circumstances when exercising its Reasonable Business Judgment. At no time are Franchisee or any third party (including, but not limited to other franchise owners or any trier of fact) entitled to substitute your or its judgment for a judgment, which has been made by or on behalf of Franchisor which meets the definition of Reasonable Business Judgment. Franchisor and Franchisee agree that the long-term goals of a franchise system, and the long-term interests of both Franchisor and all franchisees, taken together, require that Franchisor have the latitude to exercise its Reasonable Business Judgment.

**Section 14.05 Time.** Time is of the essence of this Agreement.

**Section 14.06 Overdue Amounts.** All amounts from time to time owing to Franchisor or its Affiliates by Franchisee under this or any other agreement shall bear interest from and after the due date until paid in full at the Prime Bank Rate plus four percent (4%), calculated and payable monthly on the first day of each month, not in advance, both before and after maturity, default and judgment, with interest on overdue interest at the same rate. The acceptance of any interest payment shall not be construed as a waiver by Franchisor of its rights in respect of the default giving rise to such payment and shall be without prejudice to Franchisor's right to terminate this Agreement in respect of such default.

**Section 14.07 Force Majeure.** Neither party shall be responsible to the other for non-performance or delay in performance occasioned by any causes beyond its control, including without limitation, acts or omissions of the other party, acts of civil or military authority, acts of terrorism, strikes, lockouts, embargoes, insurrections, acts of God, outbreaks of disease or inability to obtain supplies. The inability of a party to obtain funds shall be deemed to be a matter within the control of a party. If any such delay occurs, any applicable time period shall be automatically extended for a period equal to the time lost, provided that the party affected makes reasonable effort to correct the reason for the delay and gives the other party prompt notice of such delay.

**Section 14.08 Notices.** All notices or other communications (collectively “Notices”) by the terms hereof required or permitted to be given by one to the other shall be given in writing by personal delivery, by email or other electronic transmission or by prepaid registered mail addressed to the other party as follows:

- (a) to Franchisor: HTHM Franchising, LLC  
289 Elm Street, Suite 102  
Marlborough, Massachusetts 01752  
chris.webb@hearttohomemeals.com
- (b) to Franchisee  
and the Guarantors: [location]  
Email: [email]

or at such other address as may be given by one of them to the other in writing from time to time and such Notices shall be deemed to have been received when delivered, one (1) day following the date of transmission by facsimile or other electronic transmission or, if mailed, five (5) business days after the date of mailing.

**Section 14.09 Waiver of Obligations.** Franchisor may by written instrument unilaterally waive any obligation of, or restriction upon, Franchisee under this Agreement. No acceptance by Franchisor of any payment from Franchisee and no failure, refusal or neglect of Franchisor to exercise any right under this Agreement or to insist upon full compliance by Franchisee with its obligations hereunder shall constitute a waiver of any provision of this Agreement.

**Section 14.10 Rights Cumulative.** The rights of Franchisor under this Agreement are cumulative and the exercise or enforcement by Franchisor of any right or remedy hereunder shall not preclude the exercise or enforcement by Franchisor of any other right or remedy hereunder or to which Franchisor may otherwise be entitled by law.

**Section 14.11 No Liability.** Franchisor and its Affiliates and their respective officers, directors, employees and agents shall not be responsible or otherwise liable for any injury, loss, or damage resulting from, occasioned to or suffered by any person or to any property because of any goods or services sold or otherwise provided by them to Franchisee.

**Section 14.12 Right of Offset.** Notwithstanding any other provision of this Agreement, upon the failure of Franchisee to pay Franchisor as and when due any sums of money, Franchisor may, at its election, deduct any and all such sums remaining unpaid from any monies or credit held by Franchisor for the account of Franchisee.

**Section 14.13 Franchisee Cannot Withhold.** Franchisee agrees that it shall not, on grounds of the alleged non-performance by Franchisor of any of its obligations hereunder, withhold payment of any amounts owing to Franchisor or its Affiliates pursuant to this Agreement or otherwise.

**Section 14.14 Joint and Several Liability.** If two or more individuals, corporations, partnerships or other entities (or any combination of two or more thereof) shall sign or be subject to the terms and conditions of this Agreement as Franchisee or as a Guarantor, the liability of each of them under this Agreement shall be deemed to be joint and several.

**Section 14.15 Applicable Taxes.** Franchisee agrees to promptly pay when due all taxes levied or assessed by reason of its operation of the Franchised Business and its performance under this Agreement including without limitation sales or use taxes, business taxes and realty taxes.

**Section 14.16 Cross Default.** Any default by Franchisee in the performance or observance of any of the terms and conditions of under any other agreement between Franchisor and Franchisee shall be deemed to be a default under this Agreement.

**Section 14.17 Survival.** The rights of Franchisor and the obligations of Franchisee and each of the Guarantors Section 14.01 and under Article XII and Article XIII of this Agreement shall survive the expiration or termination of this Agreement. The provisions of this Agreement which, by their terms, survive the termination or expiration of this Agreement will survive the termination or expiration of this Agreement for any reason.

**Section 14.18 Language.** The parties to this Agreement acknowledge having required that this Agreement as well as all notices, documents or agreements related to this Agreement be drafted in English.

**Section 14.19 Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The parties hereto agree that this Agreement may be transmitted by facsimile or such similar device and that the reproduction of signatures by facsimile or such similar device will be treated as binding as if originals.

## **ARTICLE XV ACKNOWLEDGEMENTS AND WARRANTY**

**Section 15.01 Independent Investigation.** Franchisee and the Guarantors acknowledge that, prior to executing this Agreement, they have conducted an independent investigation of the business franchised hereunder. Franchisee and the Guarantors further acknowledge that the business venture contemplated by this Agreement involves business risks and that its success will be dependent upon the ability of Franchisee and the Guarantors as independent businessmen. Franchisor expressly disclaims the making of, and Franchisee and each Guarantor acknowledges that he has not received, any representation, warranty or guarantee, express or implied, as to the potential volume, profits or success of the business venture contemplated by this Agreement.

**Section 15.02 Independent Advice.** Franchisee and the Guarantors acknowledge that they have received, have had an ample time to read and have read this Agreement and Franchisor's Disclosure Document and fully understand all of their respective provisions. Franchisee and the Guarantors further acknowledge that they have had an adequate opportunity to be advised by advisors of their own choosing regarding all pertinent aspects of the business venture contemplated by this Agreement and the franchise relationship created hereby.

**Section 15.03 Volume Rebates.** Franchisor reserves the right to receive and retain, without accountability to Franchisee, any volume rebates, commissions, bonuses and other concessions, whether by way of cash, kind or credit, from any manufacturer or supplier designated

by Franchisor, whether or not on account of purchases made (i) by Franchisor for its own account or for the account of Franchisee or (ii) by Franchisee directly for its own account.

## **ARTICLE XVI MISCELLANEOUS**

**Section 16.01 Table of Contents and Headings.** The table of contents preceding this Agreement into articles and sections and the insertion of articles, sections and headings are for the convenience of reference only and shall not affect the interpretation or construction of this Agreement.

**Section 16.02 Number and Gender.** In this Agreement the use of the singular number includes the plural and vice versa, the use of any gender includes all genders and the word “person” includes any individual or business entity, including (without limitation) corporation, joint venture, general partnership, limited partnership, limited liability company, or trust.

**Section 16.03 Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the Delaware without regard to its conflict of laws principles.

Except for any third party dispute in which the parties may be involved, the proper, sole and exclusive venue and forum for any action arising out of or in any way related to this Agreement shall in the federal and state court districts in which Franchisor then has its principal place of business. As of the Effective Date, the proper venue is in the United States District Court for the District of Massachusetts and Middlesex County, Massachusetts. Each party to this Agreement hereby consents to any of those courts’ exercise of personal jurisdiction over the party in that type of action and expressly waives all objections the party otherwise might have to that exercise of personal jurisdiction.

**Section 16.04 Legal Fees.** If either party succeeds in any legal action to enforce this Agreement, the losing party will reimburse the prevailing party for its outside and inside attorneys’ fees and costs related to the action, in addition to any other relief obtained by the prevailing party.

**Section 16.05 Entire Agreement.** This Agreement together with the schedules attached hereto constitutes the entire Agreement between the parties with respect to the matters herein and supersedes all previous agreements and understandings between the parties in any way relating to the subject matter hereof. It is expressly understood and agreed that Franchisor has made no representations, inducements, warranties or promises, whether direct, indirect or collateral, expressed or implied, oral or otherwise, concerning this Agreement, the matters herein, the Franchised Business or concerning any other matters which are not embodied herein. Except for the rights expressly reserved for Franchisor to effect unilateral amendments to and modifications of this Agreement, the System, its components, the Program, the Manual and other aspects of the relationship, no amendment or modification of this Agreement shall be binding unless and until a written amendment is signed by Franchisor and Franchisee.

**Section 16.06 Severability of Clauses.** If any covenant or other provision of this Agreement is invalid, illegal or incapable of being enforced by reason of any rule of law or public

policy, all other conditions and provisions of this Agreement shall, nevertheless, remain in full force and effect and no covenant or provision shall be deemed dependent upon any other covenant or provision unless so expressed herein.

**Section 16.07 Agreement Binding Successors and Assigns.** Subject to the restrictions on assignment herein contained, this Agreement shall inure to the benefit of and be binding upon Franchisor, Franchisee, the Guarantors and their respective heirs, executors, administrators, successors and assigns.

**Section 16.08 Taxes.** All payments provided for herein are exclusive of applicable sales taxes, good and services taxes and other like taxes imposed upon the provision of goods or services.

**Section 16.09 JURY TRIAL WAIVER.** FRANCHISOR AND FRANCHISEE EACH IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER FRANCHISOR OR FRANCHISEE.

**Section 16.10 Waiver of Punitive Damages.** EXCEPT FOR FRANCHISEE'S OBLIGATIONS TO INDEMNIFY FRANCHISOR PURSUANT TO SECTION OF THIS AGREEMENT AND CLAIMS FOR UNAUTHORIZED USE OF THE MARKS, COPYRIGHTS OR CONFIDENTIAL INFORMATION OR FRANCHISEE OR ITS OWNERS', OFFICERS', DIRECTORS', EMPLOYEES' OR AGENTS' VIOLATION OF THE NONCOMPETITION COVENANTS, FRANCHISOR AND FRANCHISEE EACH WAIVE TO THE FULL EXTENT PERMITTED BY LAW ANY RIGHT TO, OR CLAIM FOR, ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER. FRANCHISOR AND FRANCHISEE ALSO AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN THE PARTIES THAT IS SUBJECT TO THE LIMITATION OR EXEMPTION OF PUNITIVE DAMAGES, THE PARTY MAKING A CLAIM WILL BE LIMITED TO EQUITABLE RELIEF AND RECOVERY OF ANY ACTUAL DAMAGES IT SUSTAINS.

**Section 16.11 No Class Actions.** FRANCHISEE WAIVES THE RIGHT AND OPTION, AND COVENANT NOT TO PARTICIPATE IN, ANY CLASS ACTION, MULTIPLE CLAIMANT, COUNTER CLAIMANT OR THIRD PARTY CLAIMANT CLASS ARBITRATION OR LITIGATION AGAINST FRANCHISOR OR ANY AFFILIATE. FRANCHISEE ACKNOWLEDGES THAT THE REMEDIES PROVIDED TO AND FOR IT UNDER THIS AGREEMENT ARE SUFFICIENT AND ACCEPTABLE TO FRANCHISEE AND PROVIDE AN APPROPRIATE MEANS TO SEEK REDRESS AGAINST FRANCHISOR FOR BREACH OF THIS AGREEMENT OR APPLICABLE LAW.

[signature page follows]



**IN WITNESS WHEREOF** the parties hereto have caused this Agreement to be duly executed as of the date first written above.

HTHM FRANCHISING, LLC

\_\_\_\_\_  
I have the authority to bind the Company.

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

Its: \_\_\_\_\_

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

SIGNED, SEALED AND DELIVERED )  
in the presence of )

\_\_\_\_\_ )

\_\_\_\_\_ )

**GUARANTORS**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**SCHEDULE A**

**SALES TARGET**

<b>Time Period *</b>	<b>Gross Sales (non-cumulative)</b>
Year 1	\$ _____
Year 2	\$ _____
Year 3	\$ _____
Year 4	\$ _____
Year 5	\$ _____
Year 6	\$ _____
Year 7	\$ _____
Year 8	\$ _____
Year 9	\$ _____
Year 10	\$ _____

\*Year 1 begins on the Actual Opening Date and ends on the first anniversary thereof. Each subsequent year runs for the same 12-month period thereafter.

**SCHEDULE B**

**TRANSACTION DETAILS**

**PART 1: Address of Premises**

[address]

**PART 2: Territory**

The Territory referred to in the Franchise Agreement will be as follows:

**Actual Opening Date:**

\_\_\_\_\_, 202\_

Time to complete and open Franchised Business: 120 days after the Effective Date.

**PART 4: Address and Contact Information of Franchisee:**

**PART 5: Franchisee Owners:**

<b>Name</b>	<b>Address</b>	<b>Telephone</b>	<b>Email</b>	<b>Percentage Ownership</b>

\* Person designated as Owner-Operator.

**SCHEDULE C  
LEASE RIDER**

This Lease Rider is made and entered into as of \_\_\_\_\_, 20\_\_ by and among HTHM Franchising, LLC, a Delaware limited liability corporation (“**Franchisor**”), \_\_\_\_\_, a \_\_\_\_\_ (“**Tenant/Operator**”) and \_\_\_\_\_, a \_\_\_\_\_ (“**Landlord**”).

**RECITALS**

Tenant/Operator and Landlord desire to enter into a lease (the “**Lease**”) pursuant to which Tenant/Operator will occupy and finish the premises located at \_\_\_\_\_ (the “**Premises**”) for use and operation of a Heart to Home Meals business (the “**Franchised Business**”) authorized under a Franchise Agreement to be executed between Franchisor and Tenant/Operator prior to the opening of the Franchised Business (the “**Franchise Agreement**”). As a condition to Franchisor’s approval of the Premises as the location for the Franchised Business, the Tenant/Operator is required under the Franchise Agreement to execute this Lease Rider along with the Landlord and Franchisor;

**NOW, THEREFORE**, in consideration of the mutual undertakings and commitments set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

(1) During the term of the Franchise Agreement, the Premises shall be used only for the operation of the Franchised Business.

(2) Landlord consents to Tenant/Operator’s use and display of such proprietary marks (the “**Marks**”) and signs, decor items, color schemes, plans, specifications and related components of the Heart to Home Meals business system (the “**System**”) as Franchisor has prescribed, and may in the future prescribe, for the Restaurant. [**Landlord affirms that the Lease does not prohibit the delivery service of any menu items of the current System, based on the menu provided to Landlord.**]

(3) Landlord agrees to send Franchisor conformed, legible copies of any and all letters and notices sent to Tenant/Operator pertaining to the Lease and the Premises at the same time that such letters and notices are sent to Tenant/Operator.

(4) Franchisor shall have the right, and Landlord consents to allow Franchisor, to enter the Premises during hours when the Premises is available for tenant entry to make any modification or alteration necessary to protect the Franchised Business, the System and Marks or to cure any default under the Franchise Agreement, or under the Lease, without being guilty of trespass or any other crime or tort.

(5) In the event of Tenant/Operator’s default under the Lease, Franchisor may, but has no obligation, to cure the default. Franchisor shall make this determination within thirty (30) days after Franchisor receives notice of the Lease default from Landlord. If Franchisor elects to cure the default, Franchisor shall cure the default within thirty (30) days of such election or, if the default cannot be reasonably cured within such thirty (30) day period, then Franchisor shall

commence and proceed to act diligently to cure the default within such time as is reasonably necessary to cure the default.

(6) Franchisor has an option to acquire the Franchised Business from Tenant/Operator if the Franchise Agreement expires or terminates. If Franchisor exercises the option, it will notify Landlord when it notifies Tenant/Operator. If Franchisor so exercises its option, or makes a different arrangement with Tenant/Operator to acquire the Franchised Business, then Landlord shall permit Tenant/Operator to assign the Lease to Franchisor or to Franchisor's affiliated assignee or designee as successor in interest ("**Successor**") to Tenant/Operator, which shall be obligated to assume Tenant/Operator's obligations under the Lease. Successor shall attorn to Landlord under the Lease and Landlord shall attorn to and agree not to disturb the tenancy of Successor. In such event Successor shall assume Tenant/Operator's occupancy rights, rights under any renewal or purchase options, and the right to sublease the Premises, for the remainder of the term of the Lease including any applicable renewal periods.

(7) Landlord hereby consents to such assignment and agrees not to impose or assess any assignment fee or similar charge or increase or accelerate rent under the Lease in connection with such assignment, or require Successor to pay any rent or other financial obligation of Tenant/Operator to Landlord arising prior to the assignment. Landlord agrees to look solely to the Tenant/Operator and its guarantors for any rents or other financial obligations owed to Landlord arising prior to such assignment. Landlord and Tenant/Operator acknowledge that Franchisor is not a party to the Lease and shall have no liability under the Lease, unless and until the Lease is assigned to, and assumed by Franchisor as Successor.

(8) Notwithstanding anything contained in this Lease Rider and in the Lease, Successor is expressly authorized, without the consent of the Landlord, to sublet the Leased Premises to an authorized System franchisee, provided such subletting is specifically subject to the terms of the Lease and further provided Franchisee expressly assumes in writing all obligations of the Lease. Franchisor agrees to notify Landlord as to the name of Franchisee within ten (10) days after such subletting.

(9) Tenant/Operator shall not assign the Lease or renew or extend the term thereof without the prior written consent of Franchisor.

(10) Landlord and Tenant/Operator shall not amend or otherwise modify the Lease in any manner that could materially affect any of the foregoing without the prior written consent of Franchisor.

(11) This Lease Rider will supersede any conflicting terms of the Lease.

[remainder of page intentionally left blank]

**IN WITNESS WHEREOF**, the parties have executed this Lease Rider as of the date first above written.

**FRANCHISOR:**

**HTHM FRANCHISING, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TENANT/OPERATOR:**

\_\_\_\_\_


By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LANDLORD:**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE D  
MARKS**

<b>Mark</b>	<b>Registration Number</b>	<b>Principal or Supplemental Register</b>	<b>Registration Date</b>
Heart to Home Meals	5158658	Principal	March 14, 2017
Words Plus Design  	5158662	Principal	March 14, 2017

**SCHEDULE E**

**AUTOMATED CLEARING HOUSE PAYMENT AUTHORIZATION**



**AUTHORIZATION AGREEMENT  
FOR PRE-AUTHORIZED PAYMENTS**

(DEBITS)

**HTHM Franchising, LLC**

COMPANY NAME

\_\_\_\_\_  
COMPANY ID NUMBER

I (we) authorize HTHM Franchising, LLC (the “**Company**”) and \_\_\_\_\_ (the “**Bank**”) to electronically credit and/or debit my (our): \_\_\_ checking \_\_\_ savings account specified below. Such credits and/or debits shall take place on a [RECURRING TIME PERIOD] basis with a minimum amount of \$[\_\_\_\_] and a maximum amount of \$[\_\_\_\_] per transaction. Such minimum and maximum amounts may be amended at any time by any written notice from me (us) to Company.

CUSTOMER’S BANK NAME

BRANCH LOCATION

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
CITY

\_\_\_\_\_  
STATE

\_\_\_\_\_  
ZIP CODE

\_\_\_\_\_  
CUSTOMER’S BANK TRANSIT/  
ABA NUMBER

\_\_\_\_\_  
ACCOUNT NUMBER

This authority will remain in full force and effect until the Company and the Bank receive notification from the undersigned of its termination in time for the Company and the Bank to act on it. The Company will provide the undersigned with a copy of this Authorization Agreement upon request.

\_\_\_\_\_  
CUSTOMER NAME(S) - (Please print)

\_\_\_\_\_  
CUSTOMER NUMBER

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**SCHEDULE F  
SECURITY AGREEMENT**

## SECURITY AGREEMENT

This **SECURITY AGREEMENT**, dated as of [DATE] (this “**Agreement**”), is made by and among \_\_\_\_\_, a \_\_\_\_\_ (“**Franchisee**”), \_\_\_\_\_, an individual [and \_\_\_\_\_, an individual] (“**Owner**”)(collectively, Franchisee and Owner[s], the “**Grantor**”), in favor of [apetito HFS Limited, an Ontario corporation] [HTHM Franchising, LLC, a Delaware limited liability company] (the “**Secured Party**”).

**Recitals.** Grantor has entered into a Franchise Agreement dated of even date with this Agreement (“**Franchise Agreement**”) with [Secured Party][HTHM Franchising, LLC, a Delaware limited liability company (“**Franchisor**”), an affiliate of the Secured Party,] to participate in the Heart to Home Meals franchise program delivering frozen, high quality ready to heat and eat meals (“**Program Meals**”) to individual and institutional customers (“**Retail Customers**”). Grantor markets Program Meals, enrolls Retail Customers, delivers Program Meals to Retail Customers, and collects the price of Program Meals from Retail Customers or third party payors. Secured Party sells, supplies and delivers the Program Meals to Grantor under the Franchise Agreement. Secured Party is the designated supplier of Products to Heart to Home Meals franchisees in the United States. This Agreement secures the obligation of Grantor to pay Secured Party the wholesale price for the Program Meals purchased by granting a security interest in the Collateral, as defined herein, to secure the payment and performance of any and all Secured Obligations, also as defined herein.

**NOW THEREFORE**, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **DEFINITIONS.** All capitalized terms used herein without definitions shall have the respective meanings set forth in the Franchise Agreement. Unless otherwise defined herein, terms used herein that are defined in the Uniform Commercial Code as in effect from time to time in the State of Delaware (the “**UCC**”) shall have the meanings assigned to them in the UCC. However, if a term is defined in Article 9 of the UCC differently than in another Article of the UCC, the term has the meaning specified in Article 9.

2. **GRANT OF SECURITY INTEREST.**

(a) For value received, the Grantor hereby grants to the Secured Party, to secure the payment and performance in full of all of the Secured Obligations (as defined in Section 3 of this Agreement), a security interest in and pledges and assigns to the Secured Party the following properties, assets, and rights of the Grantor, wherever located, whether the Grantor now has or hereafter acquires an ownership or other interest or power to transfer, and all proceeds and products thereof, and all books and records relating thereto (all of the same being hereinafter called the “**Collateral**”): all personal and fixture property of every kind and nature including all goods (including inventory of Program Meals and other inventory sold to Retail Customers, equipment, and any accessions thereto), instruments (including promissory notes), documents (whether tangible or electronic), accounts (including health-care insurance receivables and accounts receivable of Retail Customers), chattel paper (whether tangible or electronic), money, deposit accounts, letters of credit, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), securities and all other investment property, supporting obligations, and

other contracts rights or rights to the payment of money, insurance claims and proceeds, tort claims, and all general intangibles (including all payment intangibles).

(b) If the Grantor shall at any time hold or acquire a commercial tort claim, the Grantor shall immediately notify the Secured Party in writing of the details thereof and grant to the Secured Party in such writing, in form and substance satisfactory to the Secured Party, a security interest therein and in the proceeds thereof.

3. SECURED OBLIGATIONS. This Agreement secures the prompt and full performance and payment of all of the accounts, indebtedness, obligations, liabilities, and undertakings of the Grantor to the Secured Party, of any kind or description, individually or collectively, whether direct or indirect, joint or several, absolute or contingent, due or to become due, voluntary or involuntary, now existing or hereafter arising (including, all interest, fees (including attorneys' fees), costs, and expenses that the Grantor is hereby or otherwise required to pay and perform pursuant to the Franchise Agreement, this Agreement, or any other franchising document entered into with Franchisor, by law or otherwise accruing before and after the filing of any petition in bankruptcy or the commencement of any insolvency, reorganization or like proceeding relating to the Grantor, whether or not a claim for post-petition interest, fees or expenses is allowed in such proceeding), irrespective of whether for the payment of money, under or in respect of the Franchise Agreement, this Agreement, or any other franchising document, including instruments or agreements executed and delivered pursuant thereto or in connection therewith (the “**Secured Obligations**”). The Secured Obligations include invoices and accounts payable to Secured Party arising from orders of Program Meals delivered for the account of Grantor.

4. CHANGES IN LOCATION OF COLLATERAL. The Collateral will be kept and maintained as provided in the Franchise Agreement. Grantor shall notify Secured Party, in writing or via electronic communication, immediately upon any change in the location of any Collateral and provide the Secured Party with the new location of such Collateral. The security interest granted in this Agreement remains attached to the Collateral regardless of any transfer or relocation of the Collateral.

5. CHANGES IN GRANTOR. Grantor hereby agrees to notify the Secured Party, in writing or via electronic communication, at least thirty (30) days before any of the following actions: (a) change in the location of Grantor's place of business; (b) change in Grantor's name; (c) change in Grantor's type of organization; (d) change in Grantor's jurisdiction of organization; and (e) change in the Grantor's ownership that requires the consent of Franchisor under the Franchise Agreement.

6. TRANSFER OF COLLATERAL. Grantor shall not sell, offer to sell, assign, lease, license, or otherwise transfer, or grant, create, permit, or suffer to exist any option, security interest, lien, or other encumbrance in, any part of the Collateral (except for sales of Program Meals to Retail Customers in the ordinary course of business), without prior written approval from Secured Party.

7. GRANTOR REPRESENTATIONS AND WARRANTIES. Grantor hereby represents, warrants, and covenants that: (a) Grantor owns or has good and marketable title to the Collateral and no other person or organization can make any claim of ownership or encumbrance of any kind on the Collateral; (b) Grantor has the full power, authority and legal right to grant the security interest in the Collateral; (c) the Collateral is free from any and all

claims, encumbrances, rights of setoff or any other security interest or lien of any kind except for the security interest in favor of the Secured Party created by this Agreement and (d) this Agreement creates in favor of the Secured Party a valid purchase money security interest in the Collateral, securing payment of the Secured Obligations, and such security interest is first priority. The Grantor will defend the Collateral against all claims and demands made by all persons claiming either the Collateral or any interest in it.

8. GRANTOR COVENANTS AND INSURANCE. Grantor grants to Secured Party and its representatives the right to enter Grantor's property (including leased premises and vehicles) to inspect the Collateral at any reasonable time; however in no case shall notice or consent of Grantor be required if Secured Party enters Grantor's property for the purposes of remedying a breach of this Agreement as provided in Section 10 of this Agreement. Grantor agrees to: (a) store the Collateral at the required frozen temperature at all times to preserve its merchantability and fitness for human consumption, rotate the Collateral to avoid spoilage and expiration, maintain the Collateral in good order, repair, and condition at all times; (b) timely pay all taxes, judgments, levies, fees, or charges of any kind levied or assessed on the Collateral; (c) timely pay all rent or mortgage payments of any kind as applicable to any real property upon which any part of the Collateral is located; and (d) have and maintain at all times a hazard insurance policy on the Collateral underwritten by an insurance company, and in an amount, approved by the Secured Party, but in no way shall the amount of insurance be less than the replacement cost of the Collateral. The insurance procured in this Section shall contain a standard Lender's Loss Payable Clause in favor of the Secured Party and provide that Secured Party will receive at least thirty (30) days' notice of any cancellation of the policy. Grantor hereby assigns to Secured Party all rights to any proceeds of any insurance procured under this Section and authorizes Secured Party to receive such payments and execute any and all documents required to receive such payments. If Grantor fails to provide for the insurance as set out in this Section, Secured Party, in addition to any remedies as set out in Section 10 of this Agreement, may procure the requisite insurance on the Collateral on its own behalf and charge Grantor with any and all costs of such procurement.

9. PERFECTION OF SECURITY INTEREST. Grantor agrees that at any time and from time to time, at the expense of Grantor, Grantor will promptly execute and deliver all further financing statements, instruments and documents, obtain such agreements from third parties, and take all further action, that may be necessary or desirable, or that the Secured Party may request, in order to create and/or maintain the validity, perfection or priority of and protect any security interest granted or purported to be granted hereby or to enable Secured Party to exercise and enforce its rights and remedies hereunder or under any other agreement with respect to any Collateral. Grantor hereby authorizes Secured Party to file or record any document necessary to perfect, continue, amend, or terminate its security interest in the Collateral, including, but not limited to, any financing statements, including amendments, authorized to be filed under the UCC, without signature of Grantor where permitted by law, including the filing of a financing statement describing the Collateral as all assets now owned or hereafter acquired by Grantor, or words of similar effect. Grantor also hereby ratifies any previously filed documents or recordings regarding Collateral, including but not limited to, any and all previously filed financing statements.

10. REMEDIES. Any failure to pay a Secured Obligation when due that occurs and continues for a period of five days after Secured Party gives Grantor notice of such failure, or any failure, breach or violation of this Agreement by Grantor or any of its other

obligations under this Agreement or the Franchise Agreement that occurs and continues for a period of ten days after Secured Party gives Grantor notice of such breach, shall constitute an “**Event of Default.**” If an Event of Default shall have occurred and be continuing, the Secured Party may do any or all of the following: (a) declare all Secured Obligations immediately due and payable; (b) enter the Grantor's property where the Collateral is located and take possession of the Collateral without demand or legal process; (c) require the Grantor to assemble and make available the Collateral at a specific time and place designated by the Secured Party; (d) sell, lease, or otherwise dispose of the Collateral at any public or private sale in accordance with the law; and (e) enforce payment of the Secured Obligations and exercise any rights and remedies available to the Secured Party under law, including, but not limited to, those rights and remedies available to the Secured Party under Article 9 of the UCC.

11. SECURED PARTY RIGHTS. Any and all rights of the Secured Party provided by this Agreement are in addition to any and all rights available to the Secured Party by law and shall be cumulative and may be exercised simultaneously or serially. No delay, omission, or failure on the part of the Secured Party to exercise or enforce any of its rights or remedies, either granted under this Agreement or by law, shall constitute an estoppel or waiver of such right or remedy or any other right or remedy. Any and all rights of the Secured Party provided by this Agreement shall inure to the benefit of its successors and assigns. Grantor shall not assign or delegate this Agreement or any of Grantor’s obligations to pay or perform under this Agreement without the prior written consent of Secured Party.

12. SEVERABILITY AND MODIFICATION. If any of the provisions in this Agreement is determined to be invalid, illegal, or unenforceable, such determination shall not affect the validity, legality, or enforceability of the other provisions in this Agreement. No waiver, modification or amendment of, or any other change to, this Agreement will be effective unless done so in a separate writing signed by the Secured Party.

13. NOTICES. Any notice or other communication required or permitted to be given under this Agreement, including, without limitation, notices under Sections 4, 5 and 10 of this Agreement, shall be given to the parties and shall become effective as provided in the notice sections of the Franchise Agreement, which are incorporated herein by this reference.

14. ENTIRE AGREEMENT. This Agreement (including the Recitals, which are an integral part of this Agreement, and all documents referred to herein) represents the entire agreement between the Grantor and the Secured Party and supersedes all previous understandings and agreements between the Grantor and the Secured Party, whether oral or written, regarding the subject matter hereof.

15. GOVERNING LAW. This Agreement will be interpreted and construed according to the laws of the State of Delaware, including, but not limited to, the UCC, without regard to choice-of-law rules in any jurisdiction.

16. VENUE. Section 16.03 of the Franchise Agreement is incorporated herein by this reference.

IN WITNESS WHEREOF, the undersigned Grantor and Secured Party have executed this Security Agreement as of the date first above written.

**GRANTOR**

[ENTITY NAME], as Grantor

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

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

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

**OWNERS**

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

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

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

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

**SECURED PARTY**

**HTHM Franchising, LLC** as Secured Party

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

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

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

**SCHEDULE G**  
**MANAGEMENT CONFIDENTIALITY AGREEMENT**



## **MANAGEMENT CONFIDENTIALITY AND NON-COMPETITION AGREEMENT**

The undersigned Heart to Home Meals franchisee on-premises manager (“Manager”), in consideration of the access to training and confidential information he or she has received or will receive from HTHM Franchising, LLC, a Delaware limited liability company, and/or its affiliates (collectively, the “Company”) in connection with Manager’s employment with the Company’s franchisee named below (the “Franchisee”), hereby covenants and agrees as follows:

1. Confidentiality Agreement. Manager acknowledges that, while employed by the Franchisee, Manager has and will receive certain confidential information and knowledge concerning the Heart to Home Meals business of the Company which the Company wishes to protect, including (without limitation) information, knowledge, know-how, recipes, formulae, materials, equipment, techniques, systems, manuals, training materials, standards and specifications, marketing and advertising plans, pricing information, customer information, employee information, supplier information, and other data relating to or comprising the Heart to Home Meals franchise system. Confidential information includes the Operations Manual and other materials and information supplied by Company to the Franchisee that is identified as confidential at the time of disclosure or before. Manager shall not reveal that confidential information to any other party, except the Company’s or the Franchisee’s independent public accountants, Manager’s legal counsel (if that counsel also agrees to maintain the confidentiality of the confidential information), or as otherwise required by law. Manager shall not use or disclose the confidential information at any time for the purpose of competition with the Company, its successors and assigns, or Franchisee. When Manager’s employment with Franchisee terminates for any reason, Manager promptly shall surrender to Franchisee all papers, documents, writings and other property produced by Manager or coming into Manager’s possession by or through Manager’s employment with the Franchisee containing confidential information or related in any way to confidential information. All of the foregoing materials shall remain the property of the Company, its successors, or its assigns.

2. Covenant Not to Compete. During the term of Manager’s employment with the Franchisee and for a period of 24 months after the termination of Manager’s employment with the Franchisee for any reason, Manager shall not engage in, directly or indirectly as a principal, agent, trustee, employee, consultant, independent contractor or through any corporation, partnership, association, or other entity, any business or be employed in a restaurant or prepared food retailer that is the same or similar to a Heart to Home Meals Franchised Business at any location within a 10-mile radius of any Heart to Home Meals Franchised Business location at which Manager worked or within a 10-mile radius of any then-existing Heart to Home Meals Franchised Business location.

3. Indemnification and Injunctive Relief. Manager shall indemnify and hold the Company and the Franchisee harmless against any losses, damages, costs, expenses, claims or actions, including attorneys’ fees and costs, proximately caused by any breach of this Agreement by Manager. Manager shall pay to the Company any compensation, profits or economic benefits realized by Manager resulting from any breach of this Agreement. The Company shall have the right to injunctive and other equitable relief prohibiting Manager from any violation or threatened violation of this Agreement, without posting any bond or security.

4. Governing Law. The laws of Delaware shall govern this Agreement.

5. Entire Agreement. This Agreement constitutes the entire agreement of the parties with regard to the subject matter of this Agreement and replaces and supersedes all other written and oral agreements and statements of the parties relating to the subject matter of this Agreement.

6. Limitations. This Agreement is not a contract of employment and creates no employment relationship between Manager and the Company. Manager is not a third-party beneficiary of any contract between the Company and the Franchisee. Franchisee remains the sole employer of Manager and is solely responsible for the recruitment, selection, training, supervision, compensation, benefits, insurance, worker's compensation, discipline and termination of Manager. During any period of on-the-job training of Manager by the Company, Franchisee shall remain the sole employer of Manager and shall be responsible for controlling all aspects of Manager's employment.

7. Third Party Right of Enforcement. Manager is signing this Agreement not only for Franchisee's benefit but also for the benefit of HTHM Franchising, LLC and its affiliates. Franchisee, HTHM Franchising, LLC, and its affiliates have the right to enforce this Agreement directly against Manager.

8. Representation. Manager certifies he or she has read and fully understands this Agreement and entered into willingly.

Executed and delivered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Manager:**

\_\_\_\_\_  
Signature

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

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

**SCHEDULE H**  
**FRANCHISE AGREEMENT ADDENDA REQUIRED BY CERTAIN STATES**

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO THE  
FLORIDA FRANCHISE ACT**

This "Addendum" is made and entered into by and between HTHM Franchising, LLC, a Delaware limited liability company ("we", "our" or "us"), as franchisor and \_\_\_\_\_, a \_\_\_\_\_ ("you"), as franchisee, to amend and supplement that certain Franchise Agreement that we and you have executed, and is dated as of the same date. The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

This Agreement contains covenants not to compete. Both you and we acknowledge and understand that (a) these provisions may or may not be enforceable under applicable Florida law, and (b) if any such provision is determined by a court or agency having valid jurisdiction to be unenforceable under applicable Florida law, then there shall automatically be added to this Agreement a provision as similar in terms to such unenforceable provision as may be possible and legal, valid and enforceable.

The undersigned have executed and delivered this Addendum effective concurrently with the execution and delivery of the Franchise Agreement.

Signed on \_\_\_\_\_, 20\_\_.

**HTHM Franchising, LLC**

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

Attest: \_\_\_\_\_

YOU, AS FRANCHISEE:

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

Attest: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO THE  
ILLINOIS FRANCHISE DISCLOSURE ACT**

This “Addendum” is made and entered into by and between HTHM Franchising, LLC, a Delaware limited liability company (“we”, “our” or “us”), as franchisor and \_\_\_\_\_, a \_\_\_\_\_ (“you”), as franchisee, to amend and supplement that certain Franchise Agreement that we and you have executed, and is dated as of the same date. The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

1. Illinois law governs the Franchise Agreement.
2. In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction or venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.
3. In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.
4. Your rights upon Termination and Non-Renewal are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.
5. 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.
6. All other rights, obligations, and provisions of the Franchise Agreement shall remain in full force and effect. This Addendum is incorporated in and made a part of the Franchise Agreement for the State of Illinois.

*(Signatures Appear on Following Page)*

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Addendum to be executed by its duly authorized representative as of the date of the Franchise Agreement.

**FRANCHISOR**

**HTHM Franchising, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FRANCHISEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ADDENDUM TO THE DISCLOSURE DOCUMENT AND FRANCHISE AGREEMENT,  
PURSUANT TO THE INDIANA FRANCHISE DISCLOSURE LAW AND  
THE INDIANA DECEPTIVE FRANCHISE PRACTICES ACT**

This “Addendum” is made and entered into by and between HTHM Franchising, LLC, a Delaware limited liability company (“we”, “our” or “us”), as franchisor and \_\_\_\_\_, a \_\_\_\_\_ (“you”), as franchisee, to amend and supplement that certain Franchise Agreement that we and you have executed, and is dated as of the same date. The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

1. The prohibition by Indiana Code 23-2-2.7-1(7) against unilateral termination of the Franchise Agreement without good cause or in bad faith, good cause being defined therein as a material breach of the Franchise Agreement, shall supersede the provisions of Section 13 of the Franchise Agreement in the State of Indiana to the extent they may be inconsistent with such prohibition.
2. The first sentence of Section 16.02 is deleted in its entirety and replaced with the following:  
  
“This Franchise Agreement and any claims arising under it or in relation to it or to the relationships between the parties shall be governed, construed, interpreted and enforced by and under the laws of the State of Indiana.”
3. No release language set forth in the Franchise Agreement shall require a party to release any claim arising under Indiana franchise law.
4. 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.

All other rights, obligations, and provisions of the Franchise Agreement shall remain in full force and effect. This Addendum is incorporated in and made a part of the Franchise Agreement for the State of Indiana.

*(Signatures Appear on Following Page)*

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Addendum to be executed by its duly authorized representative as of the date of the Franchise Agreement.

**FRANCHISOR**

**HTHM Franchising, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FRANCHISEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO THE  
MARYLAND FRANCHISE REGISTRATION AND DISCLOSURE LAW**

This "Addendum" is made and entered into by and between HTHM Franchising, LLC, a Delaware limited liability company ("we", "our" or "us"), as franchisor and \_\_\_\_\_, a \_\_\_\_\_ ("you"), as franchisee, to amend and supplement that certain Franchise Agreement that we and you have executed, and is dated as of the same date.

1. Our right to terminate pursuant to Section 11.01 of the Franchise Agreement if you commence bankruptcy may not be enforceable under federal bankruptcy law (11 U.S.C.A. 101 et seq.).
2. Any general release required as a condition of renewal, sale, and/or assignment or transfer of the Store or the Franchise Agreement shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.
3. A Maryland franchise regulation states that it is an unfair or deceptive practice to require a franchisee to waive its right to file a lawsuit in Maryland claiming a violation of the Maryland Franchise Registration and Disclosure Law.
4. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.
5. 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 and Disclosure Law.
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. All other rights, obligations, and provisions of the Franchise Agreement shall remain in full force and effect. This Addendum is incorporated in and made a part of the Franchise Agreement for the State of Maryland.

*(Signatures Appear on Following Page)*

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Addendum to be executed by its duly authorized representative as of the date of the Franchise Agreement.

**FRANCHISOR**

**HTHM Franchising, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FRANCHISEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO  
THE MICHIGAN FRANCHISE INVESTMENT LAW**

This “Addendum” is made and entered into by and between HTHM Franchising, LLC, a Delaware limited liability company (“we”, “our” or “us”), as franchisor and \_\_\_\_\_, a \_\_\_\_\_ (“you”), as franchisee, to amend and supplement that certain Franchise Agreement that we and you have executed, and is dated as of the same date. The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

- A. **THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THE FRANCHISE AGREEMENT, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU.**
- B. A prohibition on the right of a franchisee to join an association of franchisees.
- C. A requirement that a franchisee assent to a release, assignment, novation, waiver or estoppel which deprives 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.
- D. A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- E. A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee’s inventory, supplies, equipment, fixtures and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures and furnishings not reasonably required in the conduct of the 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.
- F. 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.
- G. A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- H. 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.
- I. 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.
- J. 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.
- K. 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.
- L. **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.**
- M. **ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO THE OFFICE OF THE ATTORNEY GENERAL, CONSUMER PROTECTION DIVISION, ATTN: FRANCHISE DEPARTMENT, 670 LAW BLDG., LANSING, MICHIGAN 48913, (517) 373-7117.**

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Addendum to be executed by its duly authorized representative as of the date of the Franchise Agreement.

**FRANCHISOR**

**HTHM Franchising, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FRANCHISEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO  
THE MINNESOTA FRANCHISE INVESTMENT LAW**

This “Addendum” is made and entered into by and between HTHM Franchising, LLC, a Delaware limited liability company (“we”, “our” or “us”), as franchisor and \_\_\_\_\_, a \_\_\_\_\_ (“you”), as franchisee, to amend and supplement that certain Franchise Agreement that we and you have executed, and is dated as of the same date. The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

1. The following language is added to the end of Section 16.02 of the Franchise Agreement:

“Minnesota Statutes, Section 80C.21 and Minnesota Rule 2860.4400J prohibit us from requiring litigation to be conducted outside of Minnesota. Nothing in the Franchise Agreement or Franchise Disclosure Document can abrogate or reduce any of Franchisee’s rights as provided for in Minnesota Statutes, 2087, Chapter 80C, or Franchisee’s rights to any procedure, forum or remedies provided for by the laws of Minnesota.”
2. Notwithstanding anything to the contrary in the Franchise Agreement, no release language in the Franchise Agreement shall relieve Franchisor or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Minnesota.
3. Nothing in the Franchise Agreement shall in any way abrogate or reduce any rights of Franchisee as provided for in the Minnesota Statutes, Chapter 80C. Minnesota Statutes §80C.14, subdivisions 3, 4 and 5 require that Franchisee be given at least 90 days written notice in advance of termination (with 60 days to cure) and 180 days written notice for non-renewal of the Franchise Agreement, except that the notice shall be effective immediately for certain grounds.
4. We will protect the Franchisee’s right to use the trademarks, service marks, trade names, logotypes, or other commercial symbols or indemnify the franchisee from any loss, costs or expenses arising out of any claim, suit, or demand regarding the use of the name.
5. Any limitations on claims are amended to conform to Minnesota Statutes, Section 80C.12, subdivision 1(g).
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.

All other rights, obligations, and provisions of the Franchise Agreement shall remain in full force and effect. This Addendum is incorporated in and made a part of the Franchise Agreement for the State of Minnesota.

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Addendum to be executed by its duly authorized representative as of the date of the Franchise Agreement.

**FRANCHISOR**

**HTHM Franchising, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FRANCHISEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO  
THE NEW YORK GENERAL BUSINESS LAW**

This “Addendum” is made and entered into by and between HTHM Franchising, LLC, a Delaware limited liability company (“we”, “our” or “us”), as franchisor and \_\_\_\_\_, a \_\_\_\_\_ (“you”), as franchisee, to amend and supplement that certain Franchise Agreement that we and you have executed, and is dated as of the same date. The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

1. Section 16.02 of the Franchise Agreement is amended by adding the following sentence at the end of the Section:  
  
“The foregoing choice of law should not be considered a waiver of any right conferred upon Franchisee by the General Business Law of the State of New York, Article 33.”
2. Notwithstanding anything to the contrary in the Franchise Agreement, you shall be permitted to terminate the Franchise Agreement upon any grounds available by law.
3. 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.

All other rights, obligations, and provisions of the Franchise Agreement shall remain in full force and effect. This Addendum is incorporated in and made a part of the Franchise Agreement for the State of New York.

*(Signatures Appear on Following Page)*



**IN WITNESS WHEREOF**, each of the parties hereto has caused this Addendum to be executed by its duly authorized representative as of the date of the Franchise Agreement.

**FRANCHISOR**

**HTHM Franchising, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FRANCHISEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO THE  
RHODE ISLAND FRANCHISE INVESTMENT ACT**

This “Addendum” is made and entered into by and between HTHM Franchising, LLC, a Delaware limited liability company (“we”, “our” or “us”), as franchisor and \_\_\_\_\_, a \_\_\_\_\_ (“you”), as franchisee, to amend and supplement that certain Franchise Agreement that we and you have executed, and is dated as of the same date. The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

1. 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. All other rights, obligations, and provisions of the Franchise Agreement shall remain in full force and effect. This Addendum is incorporated in and made a part of the Franchise Agreement for the State of Rhode Island.

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Addendum to be executed by its duly authorized representative as of the date of the Franchise Agreement.

**FRANCHISOR**

**HTHM Franchising, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FRANCHISEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO  
THE VIRGINIA RETAIL FRANCHISING ACT**

This “Addendum” is made and entered into by and between HTHM Franchising, LLC, a Delaware limited liability company (“we”, “our” or “us”), as franchisor and \_\_\_\_\_, a \_\_\_\_\_ (“you”), as franchisee, to amend and supplement that certain Franchise Agreement that we and you have executed, and is dated as of the same date. The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

1. Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act (the “Virginia Act”), it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the Franchise Agreement do not constitute reasonable cause, as that term may be defined in the Virginia Act or the laws of Virginia, that provision may not be enforceable.

2. You acknowledge that your failure to pay the Initial Franchise Fee when due is a material default under the Franchise Agreement, and we can suspend providing services to you and cause approved suppliers to suspend providing goods and services to you, until we receive the Initial Franchise Fee.

3. 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.

4. All other rights, obligations, and provisions of the Franchise Agreement shall remain in full force and effect. This Addendum is incorporated in and made a part of the Franchise Agreement for the State of Virginia.

*(Signatures Appear on Following Page)*

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Addendum to be executed by its duly authorized representative as of the date of the Franchise Agreement.

**FRANCHISOR:**

**HTHM Franchising, LLC**

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

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

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

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

**FRANCHISEE:**

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

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

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

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

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO  
THE WISCONSIN FRANCHISE INVESTMENT LAW**

This “Addendum” is made and entered into by and between HTHM Franchising, LLC, a Delaware limited liability company (“we”, “our” or “us”), as franchisor and \_\_\_\_\_, a \_\_\_\_\_ (“you”), as franchisee, to amend and supplement that certain Franchise Agreement that we and you have executed, and is dated as of the same date. The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

1. The Wisconsin Fair Dealership Act, Wisconsin Statutes, Chapter 135 (the “Act”), shall apply to and govern the provisions of the Franchise Agreement.

2. The Act’s requirements, including that in certain circumstances a Franchisee receive ninety (90) day notice of termination, cancellation, non-renewal or substantial change in competitive circumstances, and sixty (60) days to remedy claimed deficiencies, shall supersede the provisions of Sections 11.01 and 11.03 of the Franchise Agreement to the extent they may be inconsistent with the Act’s requirements.

3. 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.

All other rights, obligations, and provisions of the Franchise Agreement shall remain in full force and effect. This Addendum is incorporated in and made a part of the Franchise Agreement for the State of Wisconsin.

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Addendum to be executed by its duly authorized representative as of the date of the Franchise Agreement.

**FRANCHISOR**

**HTHM Franchising, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FRANCHISEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Exhibit B**

**Addenda Required by Certain States**



**SUPPLEMENTAL DISCLOSURE ADDENDUM  
FOR PROSPECTIVE FRANCHISEES  
IN THE STATE OF FLORIDA**

**Total Investment**

We do not know the amount of the total required investment in a Franchised Business over the term of the franchise. We do not request, obtain or receive this information from franchisees. We refer you to Item 7 for the known initial investment. Additional capital investments in the Franchised Business will be necessary over the term of the franchise to maintain the Franchised Business according to the System.

**ADDENDUM TO THE DISCLOSURE DOCUMENT PURSUANT TO  
THE ILLINOIS FRANCHISE DISCLOSURE ACT**

The following provisions supersede the Disclosure Document and apply to all franchises offered and sold in the State of Illinois:

1. The Illinois Franchise Disclosure Act governs the Franchise Agreement.
1. In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction or venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.
2. In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.
3. Your rights upon Termination and Non-Renewal are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.
4. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO THE DISCLOSURE DOCUMENT PURSUANT TO  
THE INDIANA FRANCHISE DISCLOSURE LAW  
AND THE INDIANA DECEPTIVE FRANCHISE PRACTICES ACT**

The following provisions supersede the Disclosure Document and apply to all franchises offered and sold in the State of Indiana:

1. The laws of the State of Indiana supersede any provisions of this Disclosure Document, the Franchise Agreement, the other agreements or Delaware law if such provisions are in conflict with Indiana law.
2. The prohibition by Indiana Code 23-2-2.7-1(7) against unilateral termination of the franchise without good cause or in bad faith, good cause being defined therein as a material breach of the Franchise Agreement, shall supersede the provisions of Section 11.03 of the Franchise Agreement in the State of Indiana to the extent that may be inconsistent with such prohibition.
3. Notwithstanding the Franchise Agreement, you recognize that in the event of any use of the System not in accord with that Agreement, we shall be entitled to seek injunctive and other relief.
4. No release language set forth in the Disclosure Document or Franchise Agreement shall relieve us or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Indiana.
5. Section 16.02 of the Franchise Agreement is amended to provide that each such agreement (as applicable) will be construed in accordance with the laws of the State of Indiana.
6. Any provision in the Disclosure Document or Franchise Agreement which designates jurisdiction or venue, or requires franchisee to agree to jurisdiction or venue, in a forum outside of Indiana, may not be enforceable.
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.

**ADDENDUM TO THE DISCLOSURE DOCUMENT PURSUANT TO THE  
MARYLAND FRANCHISE REGISTRATION AND DISCLOSURE LAW**

The following provisions supersede the Disclosure Document and apply to all franchises offered and sold in the State of Maryland.

1. Item 17 is amended to provide that:
  - a. The general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.
  - b. The Franchisee may sue in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.
  - c. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.
  - d. The provision in the Franchise Agreement that provides for termination upon bankruptcy of the franchisee may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101, *et seq.*).

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.

**ADDENDUM TO THE DISCLOSURE DOCUMENT PURSUANT TO  
THE MICHIGAN FRANCHISE INVESTMENT LAW**

**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 franchisee of rights and protections provided in this Act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (C) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (D) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if (i) the term of the franchise is less than 5 years and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of franchisor's intent not to renew the franchise.
- (E) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (F) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (G) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:
  - (i) The failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards.
  - (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.
  - (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

- (iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.
- (H) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a 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.
- (J) 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.

**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.**

**ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO THE OFFICE OF THE ATTORNEY GENERAL, CONSUMER PROTECTION DIVISION, ATTN: FRANCHISE DEPARTMENT, 670 LAW BLDG., LANSING, MICHIGAN 48913, (517) 373-7117.**

**ADDENDUM TO THE DISCLOSURE DOCUMENT PURSUANT TO  
THE MINNESOTA FRANCHISE INVESTMENT LAW**

The following provisions supersede the Disclosure Document and apply to all franchises offered and sold in the State of Minnesota:

Minnesota Statute 80C.21 and Minnesota Rule 2860.4400(J) prohibit the franchiser from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce (1) any of the franchisee's rights as provided for in Minnesota Statute 80C.21 (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

Any condition, stipulation or provision, including any choice of law provision, purporting to bind any person who, at the time of acquiring a franchise is a resident of the State of Minnesota or in the case of a partnership or corporation, organized or incorporated under the laws of the State of Minnesota, or purporting to bind a person acquiring any franchise to be operated in the State of Minnesota to waive compliance or which has the effect of waiving compliance with any provision of the Minnesota Franchise Law is void.

Minnesota statute §80C.14 provides: It shall be deemed unfair and inequitable for any person to:

- (A) Terminate or cancel a franchise without first giving written notice setting forth all the reasons for the termination or cancellation to the Franchisee at least 90 days in advance of termination or cancellation, and the recipient of a notice fails to correct the reasons stated for cancellation or termination within 60 days within receipt of the notice, except that the notice shall be effective immediately upon receipt where the alleged grounds are:
  - (i) Voluntary abandonment of the franchise relationship by the Franchisee;
  - (ii) The conviction of the Franchisee of an offense directly related to the business conducted pursuant to the franchise; or
  - (iii) Failure to cure a default under the Franchise Agreement which materially impairs the goodwill associated with the Franchisor's trade name, Trademark, service mark, logotype or other commercial symbol after the Franchisee has received written notice to cure of at least 24 hours in advance thereof;
  
- (B) Terminate or cancel a franchise except for good cause. "Good cause" shall be failure by the Franchisee substantially to comply with reasonable requirements imposed upon him by the franchise including, but not limited to:
  - (i) The bankruptcy or insolvency of the Franchisee;
  - (ii) Assignment for the benefit of creditors or similar disposition of the assets of the franchise business;
  - (iii) Voluntary abandonment of the franchise business;
  - (iv) Conviction or a plea of guilty or no contest to a charge of violating any law relating to the franchise business; or

- (v) Any act by, or conduct of, the Franchisee which materially impairs the goodwill associated with the Franchisor's Trademark, trade name, service mark, logotype or other commercial symbol.
- (C) Unless the failure to renew the franchise is for good cause as defined in clause (B), Franchisor may not fail to renew a franchise unless (i) the Franchisee has been given written notice of the intention not to renew at least 180 days in advance thereof and (ii) has been given an opportunity to operate the franchise over a sufficient period of time to enable the franchisee to recover the fair market value of the franchise as a going concern measured from the date of the failure to renew. No franchisor may refuse to renew a franchise if the refusal is for the purpose of converting the franchisee's business premises to an operation that will be owned by the franchisor for its own account.

A franchisor may not unreasonably withhold consent to an assignment, transfer, or sale of the franchise where the assignee meets the present qualifications and standards required of other franchisees.

Item 13 is modified as follows: The Minnesota Department of Commerce requires that a franchisor indemnify Minnesota franchisees against liability to third parties resulting from claims by third parties that the franchisee's use of the franchisor's trademark infringes upon the trademark rights of the third party. The franchisor does not indemnify against the consequences of a franchisee's use of a franchisor's trademark except in accordance with the requirements of the franchise agreement, and as the condition to an indemnification, the franchisee must provide notice to the franchisor of any such claim immediately and tender the defense of the claim to the franchisor. If the franchisor accepts tender of defense, the franchisor has the right to manage the defense of the claim, including the right to compromise, settle or otherwise resolve the claim, or to determine whether to appeal a final determination of the claim.

Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statute §§80C.01 – 80C.22.

Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. The franchisor will protect the franchisee's rights to use the trademarks, service marks, trade names, logotypes, or other commercial symbols or indemnify the franchisee from any loss, costs, or expenses arising out of any claim, suit, or demand regarding the use of the name.

The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. A court will determine if a bond is required.

The Limitations of Claims section must comply with Minnesota Statute 80C.17 Subd. 5.

Insufficient fund checks are governed by Minn. Stat. 604.113, which puts a cap of \$30 on service charges.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.



**ADDENDUM TO THE DISCLOSURE DOCUMENT PURSUANT TO  
ARTICLE 33 OF THE NEW YORK GENERAL BUSINESS LAW**

The following provisions supersede the Disclosure Document and apply to all franchises offered and sold in the State of New York:

1. The following information is added to the cover page of the Franchise Disclosure Document:

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SERVICES OR INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THIS FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE APPROPRIATE STATE OR PROVINCIAL AUTHORITY. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

2. The following is to be added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or

exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of the “Summary” sections of Item 17(c), titled **“Requirements for franchisee to renew or extend,”** and Item 17(m), entitled **“Conditions for franchisor approval of transfer”**:

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687(4) and 687(5) be satisfied.

4. The following language replaces the “Summary” section of Item 17(d), titled **“Termination by franchisee”**: You may terminate the agreement on any grounds available by law.

5. The following is added to the end of the “Summary” sections of Item 17(v), titled **“Choice of forum”**, and Item 17(w), titled **“Choice of law”**:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

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.

**ADDENDUM TO THE DISCLOSURE DOCUMENT  
FOR THE STATE OF RHODE ISLAND**

Item 17 is amended to state that 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.”

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO THE DISCLOSURE DOCUMENT PURSUANT TO  
THE VIRGINIA RETAIL FRANCHISING ACT**

The following provisions supersede the Disclosure Document and apply to all franchises offered and sold in the State of Virginia:

1. The following is added to Item 17(h):
  - (a) Any provision in any of the contracts that you sign with the Franchisor which provides for termination of the franchise upon the bankruptcy of the Franchisee may not be enforceable under federal bankruptcy law (11 U.S.C. 101 *et. seq.*).
  - (b) Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act (the “Virginia Act”), it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the Franchise Agreement and/or the Development Agreement do not constitute reasonable cause, as that term may be defined in the Virginia Act or the laws of Virginia, that provision may not be enforceable.
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.

**ADDENDUM TO THE DISCLOSURE DOCUMENT PURSUANT TO  
THE WISCONSIN FRANCHISE INVESTMENT LAW**

The following provisions supersede the Disclosure Document and apply to all franchises offered and sold in the State of Wisconsin.

**1. REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE COMMISSIONER OF SECURITIES OF THE STATE OF WISCONSIN.**

2. The following applies to Franchise Agreements in the State of Wisconsin:

- (a) The Wisconsin Fair Dealership Act, Wisconsin Statutes, Chapter 135 (the Act), shall apply to and govern the provisions of Franchise Agreements issued in the State of Wisconsin.
- (b) The Act's requirements that Franchisor must provide franchisee at least 90 days' prior written notice of termination, cancellation, or substantial change in competitive circumstances. This notice will state all the reasons for termination, cancellation or substantial change in competitive circumstances and will provide that franchisee has 60 days in which to cure any claimed deficiency. If the deficiency is cured within 60 days, the notice will be void. If the reason for termination, cancellation or substantial change in competitive circumstances is nonpayment of sums due under the franchise, franchisee will have 10 days to cure the deficiency.

3. 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.

**Exhibit C**  
**Financial Statements**

# Rödl & Partner

## **HTHM FRANCHISING LLC AND SUBSIDIARY**

CONSOLIDATED FINANCIAL STATEMENTS  
AS OF DECEMBER 31, 2022, 2021 AND 2020  
TOGETHER WITH  
INDEPENDENT AUDITORS' REPORT

HTHM FRANCHISING LLC AND SUBSIDIARY  
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DECEMBER 31, 2022, 2021 AND 2020

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# Rödl & Partner

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## INDEPENDENT AUDITORS' REPORT

To the Member and Management of  
HTHM Franchising LLC and Subsidiary:

### Opinion

We have audited the consolidated financial statements of HTHM Franchising LLC and Subsidiary (the "Company"), which comprise the consolidated balance sheets as of December 31, 2022, 2021 and 2020, and the related consolidated statements of operations and changes in member's capital, and cash flows for the years then ended, and the related notes to the consolidated financial statements.

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022, 2021 and 2020, and the results of its operations and its cash flows for the years then ended, in accordance with accounting principles generally accepted in the United States of America.

### Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America ("GAAS"). Our responsibilities under those standards are further described in the *Auditors' Responsibilities for the Audit of the Consolidated Financial Statements* section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Emphasis of Matter – Related Party Transactions

As mentioned in the notes to the consolidated financial statements, the Company has material transactions with related parties. Our opinion on the consolidated financial statements is not modified with respect to this matter.

### Responsibilities of Management for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of the consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for one year after the date that the consolidated financial statements are issued.

# Rödl & Partner

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## Auditors' Responsibilities for the Audit of the Consolidated Financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue our auditors' report that includes our opinion. Reasonable assurance is a high level of assurance, but it is not absolute assurance and, therefore, it 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 consolidated financial statements.

In performing our audits in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout our audits.
- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements.
- Obtain an understanding of internal control relevant to the audits in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the consolidated financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

*Rödl LANGFORD DE KOCK LLP*

Birmingham, Alabama,  
February 3, 2024.

HTHM FRANCHISING LLC AND SUBSIDIARY  
CONSOLIDATED BALANCE SHEETS  
DECEMBER 31, 2022, 2021 AND 2020  
(in U.S. Dollars)

	2022	2021	2020
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	\$ 59,002	\$ 17,209	\$ 71,482
Due from related party	360,840	811,509	116,795
Other receivables	-	-	624
Inventories, net	407,266	172,576	65,049
Total current assets	\$ 827,108	\$ 1,001,294	\$ 253,950
<b>LIABILITIES AND MEMBER'S CAPITAL</b>			
<b>CURRENT LIABILITIES</b>			
Accounts payable - trade	\$ 16,289	\$ 5,675	\$ -
Due to related parties	330,242	757,131	198,040
Accrued expenses and other current liabilities	13,091	-	-
Total current liabilities	359,622	762,806	198,040
<b>MEMBER'S CAPITAL</b>	467,486	238,488	55,910
	\$ 827,108	\$ 1,001,294	\$ 253,950

HTHM FRANCHISING LLC AND SUBSIDIARY  
CONSOLIDATED STATEMENTS OF OPERATIONS AND CHANGES IN MEMBER'S CAPITAL  
FOR THE YEARS ENDED DECEMBER 31, 2022, 2021 AND 2020  
(in U.S. Dollars)

	<u>2022</u>	<u>2021</u>	<u>2020</u>
SALES	\$ 880,332	\$ 740,701	\$ 377,727
COST OF GOODS SOLD	<u>481,041</u>	<u>467,440</u>	<u>315,689</u>
GROSS PROFIT	399,291	273,261	62,038
OPERATING EXPENSES	<u>170,293</u>	<u>90,683</u>	<u>3,217</u>
NET INCOME	228,998	182,578	58,821
MEMBER'S CAPITAL (DEFICIT) - BEGINNING	<u>238,488</u>	<u>55,910</u>	<u>(2,911)</u>
MEMBER'S CAPITAL - END	<u><u>\$ 467,486</u></u>	<u><u>\$ 238,488</u></u>	<u><u>\$ 55,910</u></u>

HTHM FRANCHISING LLC AND SUBSIDIARY  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
FOR THE YEARS ENDED DECEMBER 31, 2022, 2021 AND 2020  
(in U.S. Dollars)

	2022	2021	2020
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Net income	\$ 228,998	\$ 182,578	\$ 58,821
(Increase) decrease in operating assets			
Due from related party	450,669	(694,714)	(70,807)
Other receivables	-	624	(624)
Inventories, net	(234,690)	(107,527)	(44,454)
Increase (decrease) in operating liabilities			
Accounts payable - trade	10,614	5,675	(10,122)
Due to related parties	(426,889)	559,091	136,918
Accrued expenses and other current liabilities	13,091	-	-
Net cash flows from operating activities	<u>41,793</u>	<u>(54,273)</u>	<u>69,732</u>
<b>CASH AND CASH EQUIVALENTS - BEGINNING</b>	<u>17,209</u>	<u>71,482</u>	<u>1,750</u>
<b>CASH AND CASH EQUIVALENTS - END</b>	<u>\$ 59,002</u>	<u>\$ 17,209</u>	<u>\$ 71,482</u>
<b>SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION</b>			
Cash paid during the year for:			
Interest	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Income taxes	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

The accompanying notes are an integral part of these consolidated financial statements.

HTHM FRANCHISING LLC AND SUBSIDIARY  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
DECEMBER 31, 2022, 2021 AND 2020  
(in U.S. Dollars)

1. ORGANIZATION AND INDUSTRY

HTHM Franchising LLC was formed in Delaware during August 2018, and is a wholly owned subsidiary of US Food Holdings LLC. HTHM Franchising LLC owns 100% of the membership interests of HTHM Supply LLC. HTHM Franchising LLC is established to issue franchise agreements and receive franchise fees, including royalties. It is currently in the preparatory phase to establish its initial franchisees. HTHM Supply LLC exists to purchase inventories from a related party and to sell inventories to a related party and eventually to franchisees. The entities primarily operate from Marlborough, Massachusetts. HTHM Franchising LLC and HTHM Supply LLC are hereafter referred to together as the “Company.” The Company’s principal market is the United States of America.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Cash and cash equivalents

Cash equivalents are defined as investments having a maturity, when purchased, of three months or less. The Company maintains bank deposit accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk on cash and cash equivalents.

Inventories

Inventories are stated at the lower of cost and net realizable value, with cost determined by the first-in, first-out method. Inventories total \$407,266, \$172,576 and \$65,049 as of December 31, 2022, 2021 and 2020, respectively, and consist entirely of finished goods purchased for resale.

Income and deferred taxes

The Company is a member of a group that files a consolidated income tax return. The Company is a disregarded entity for federal and state income tax purposes, and therefore, the results of the Company’s operations are allocated to the member for inclusion in its respective income tax returns. Accordingly, no provision or benefit for income taxes has been recorded in the accompanying consolidated financial statements.

The Company adheres to the provisions of FASB ASC 740-10-25, which requires the Company to evaluate uncertain tax positions. The Company recognizes the tax benefit from an uncertain tax position only if it is more likely than not 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 positions are then measured based on the Company’s largest benefit that has a greater than 50% likelihood of being realized upon settlement. An income tax expense, including associated interest and penalties, and tax liability, is recorded should the Company take a tax position that has a lesser than 50% likelihood of being realized upon settlement. There were no such tax liabilities recorded as of December 31, 2022, 2021 and 2020.

The Company files income tax returns in the United States of America federal jurisdiction and in various state jurisdictions. Generally, the Company’s federal income tax returns are subject to examination by the Internal Revenue Service three years from the filing date. Generally, the state jurisdictions in which the Company files income tax returns are subject to examination for a period from three to seven years after the returns are filed.

Revenue recognition

The Company adheres to FASB Accounting Standards Update (“ASU”) 2014-09, Revenue from Contracts with Customers (Topic 606). Revenue is measured based on consideration specified in a contract with a customer, and excludes any sales incentives and amounts collected on behalf of third parties. The Company recognizes revenue when it satisfies a performance obligation by transferring control over a product to a customer in an amount that reflects the consideration the Company expects to be entitled to in exchange for those products.

For performance obligations related to frozen food products, control transfers to the customer at a point in time. The Company's standard shipping terms are FOB Origin, and the Company transfers control and records revenue for product upon shipment. There are no standard payment terms and conditions or significant financing components as all sales are to a related party. Further, there is no associated variable consideration, such as rebates, allowances, and returns that would generally decrease the transaction price which reduces revenue.

Use of estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates.

Shipping and handling cost

Shipping and handling costs associated with items delivered to customers are expensed as incurred and are recorded in operating expenses in the accompanying consolidated statements of operations and changes in member's capital.

Foreign currency transactions

The U.S. dollar is the functional currency of the Company. Transactions denominated in foreign currency are translated using the prevailing exchange rate at the date of the transaction. A gain or loss on foreign currency translation is recorded based on the change in the exchange rate between the date of the transaction and the settlement date. Balances denominated in foreign currencies and still outstanding at the balance sheet date are translated using the prevailing rate at the balance sheet date.

Concentration of risk and significant customers and vendors

For financial disclosure purposes, the Company defines significant customers and vendors as those equaling or exceeding 10 percent of sales or purchases for any year, and/or 10 percent of year-end trade receivables or payables. Substantially all sales and receivables are with one related party. Substantially all purchases and payables are with two related parties. See Note 3.

Principles of consolidation

The accompanying consolidated financial statements include the accounts of HTHM Franchising LLC and its wholly owned subsidiary HTHM Supply LLC. Upon consolidation, all material intercompany balances and transactions have been eliminated.

3. RELATED PARTY TRANSACTIONS

Related parties are defined as entities under common ownership of apetito AG.

Due from related party consists of receivables due from HTHM Operations LLC totaling \$360,840, \$811,509 and \$116,795 as of December 31, 2022, 2021 and 2020, respectively.

Due to related parties consists of the following at December 31:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
HTHM Operations LLC	\$ 320,802	\$ 580,134	\$ 62,122
apetito Canada Limited	9,440	176,997	135,918
	<u>\$ 330,242</u>	<u>\$ 757,131</u>	<u>\$ 198,040</u>

Transactions with related parties consists of the following for the years ended December 31:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Sales of inventories	\$ 880,332	\$ 740,701	\$ 377,727
Purchases of inventories	861,069	696,945	296,657

#### 4. COMMITMENTS AND CONTINGENCIES

The Company may be subject to various claims and legal proceedings covering matters that arise in the course of its business activities. Management believes that any liability that may ultimately result from the resolution of these matters will not have a material adverse effect on the financial condition or results of operations of the Company.

#### 5. SUBSEQUENT EVENTS

The date to which events occurring after December 31, 2022, the date of the most recent consolidated balance sheet, have been evaluated for possible adjustment to the consolidated financial statements or additional disclosures is February 3, 2024, which is the date the consolidated financial statements were available to be issued.



## Exhibit D

### State Administrators and Agents for Service of Process

We intend to register this Disclosure Document as a “license” or “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, the following are the state administrators responsible for the review, registration, and oversight of franchises in that state:

#### California

Department of Financial Protection and  
Innovation  
320 West 4th Street, Suite 750  
Los Angeles, California 90013-2344  
(213) 576-7500 or  
(866) 275-2677 (Toll Free)  
[www.dfpi.ca.gov](http://www.dfpi.ca.gov)  
[Ask.DFPI@dfpi.ca.gov](mailto:Ask.DFPI@dfpi.ca.gov)

#### Michigan

Michigan Department of  
Commerce  
Corporations and Securities Bureau  
670 Law Building  
Lansing, Michigan  
(517) 373-7117

#### South Dakota

Department of Labor and Regulation  
Division of Securities  
124 S. Euclid, Suite 104  
Pierre SD 57501  
(605) 773-3563

#### Hawaii

Business Registration Division Securities  
Compliance  
Department of Commerce and Consumer  
Affairs  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813  
(808) 586-2722

#### Minnesota

Minnesota Department of  
Commerce  
85 7th Place East, Suite 500  
St. Paul, Minnesota 55155  
(651)296-6328

#### Virginia

State Corporation Commission,  
Division of Securities and Retail  
Franchising  
1300 E. Main Street, Ninth Floor  
Richmond, Virginia 23219  
(804) 371-9051

#### Illinois

Franchise Division  
Office of Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-4465

#### New York

New York State Department of Law  
Investor Protection Bureau  
28 Liberty Street, 21<sup>st</sup> Floor  
New York, New York 10005  
(212) 416-8211

#### Washington

Department of Financial Institutions  
Securities Division  
P.O. Box 41200  
Olympia, Washington 9850  
(360) 902-8760

#### Indiana

Franchise Section  
Indiana Securities Division  
Secretary of State, Room E-111  
302 West Washington Street  
Indianapolis, Indiana 46204  
(317) 232-6681

#### North Dakota

Office of Securities Commissioner  
600 East Boulevard, Fifth Floor  
Bismarck, North Dakota 58505  
(701) 328-4712

#### Wisconsin

Division of Securities Department of  
Financial Institutions  
P. O. Box 1768  
Madison, Wisconsin 53701  
(608) 266-8559

#### Maryland

Office of Attorney General Division of  
Securities  
200 St. Paul Place  
Baltimore, Maryland 21202-2020  
(410) 576-6360

#### Rhode Island

Division of Securities  
233 Richmond Street, Suite 232  
Providence, Rhode Island 02903-  
4232  
(401) 222-3048

**Agents for Service of Process:**

California: Department of Financial Protection and Innovation, 2101 Arena Blvd, Sacramento, California 95834

Delaware: Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808

Hawaii: Commissioner of Securities, PO Box 40, Honolulu, Hawaii 96810

Illinois: Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706

Indiana: Indiana Secretary of State, 302 W. Washington Street, Indianapolis, Indiana 46204

Maryland: Maryland Securities Commissioner, 200 St. Paul Place, Baltimore, Maryland 21202

Massachusetts Corporation Service Company, 84 State Street, Boston, Massachusetts 02109

Minnesota: Commissioner of Commerce, 85 7th Place East, Suite 500, St. Paul, Minnesota 55155

New York: New York Secretary of State, 99 Washington Avenue, Albany, New York 12231

North Dakota: Securities Commissioner, 600 East Boulevard, Fifth Floor, Bismarck, North Dakota 58505

Rhode Island: Director of the Rhode Island Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903

South Dakota: Director, Division of Securities, Department of Labor and Regulation, 124 S. Euclid, Suite 104, Pierre, South Dakota 57501

Virginia: Clerk of the State Corporation Commission, 1300 East Main Street, First Floor, Richmond, Virginia 23219

Washington: Director of Financial Institutions, P. O. Box 41200, Olympia, Washington 98504-1200

Wisconsin: Administrator, Division of Securities, 345 West Washington Avenue, P.O. Box 1768, Madison, Wisconsin 53701-1768

## **Exhibit E**

### **Table of Contents of Operations Manual**

- Section 1: Introduction (8 pages)
- Section 2: The Business (9 pages)
- Section 3: The Franchise (24 pages)
- Section 4: Premises and Equipment (16 pages)
- Section 5: Daily Operations (18 pages)
- Section 6: Inventory Control (9 pages)
- Section 7: Service Standards (13 pages)
- Section 8: Business Administration (22 pages)
- Section 9: Routine Processes & Procedures (20 pages)
- Section 10: Customer Optimization (22 pages)
- Section 11 Marketing & Sales (19 pages)

**Exhibit F**

**Names and Addresses of Franchisees as of December 31, 2022**

## SCHEDULE C

### Heart to Home Meals Franchisees

<b>Heart to Home Meals Franchisee Contact Information</b>			
Franchisee's Name	Email Address	Contact Number	Address
Alexander Robert Cheetham Marianne Cheetham David Cheetham	niagara@hearttohomemeals.ca	Main: 905-684-1024 Toll Free: 1 (844) 714-0333	Unit 2-330 Vansickle Road St. Catharines, ON L2S 0B4
Chetan Bahl	edmonton@hearttohomemeals.ca	Main: 780-666-2336 Toll Free: 1-800-704-4779	2841 16A Ave NW Edmonton, AB T6T 0T7
Dave Galley	windsor@hearttohomemeals.ca	Main: 1-844-221-6383	6746 Concession Rd 6 South Amherstburg, ON. N9V 2Y8
Donna Qiao	halton@hearttohomemeals.ca	Main: 289-409-0050 Toll Free: 1-844-409-0050	3-581 McGeachie Drive Milton, ON L9T 3L5
Fred Pennell	winnipeg@hearttohomemeals.ca	Main: (204) 781-0630	1142 Sanford Street, Winnipeg, MB R2E 2Z9
Fred Piercey	hamilton@hearttohomemeals.ca	Toll Free L 1 (855) 740 8080	347 Grays Road Hamilton, ON L8E 2Z1
Jerome & Kate Ubalde	toronto.east@hearttohomemeals.ca	Main: 416-424-4774 Toll Free: 1-844-424-4777	25 Commercial Road, Unit 10 Toronto, Ontario M4G 1Z3
Kate Williams Wes Mulder	kingston@hearttohomemeals.ca	Main: 613-384-3333 Toll Free: 1-844-384-2333	870 Selkirk Road Kingston, ON K7P 1B6
Lisa Moles Simon Pickess	central.ontario@hearttohomemeals.ca	Main: 705-444-0741 Toll Free: 1-888-444-0741	4302 County Road 124 Collingwood, ON L9Y 3Z1
Neil & Emily Ogilvie	durham@hearttohomemeals.ca, neil.ogilvie@hearttohomemeals.ca	Main: 905-579-2255 Toll Free: 1-844-479-2255	3-1260 Terwilligar Ave Oshawa, ON L1J 7A5
Paul & Linda Knight	londonsarnia@hearttohomemeals.ca	Main: 519-899-4246 Toll Free: 1-877-404-4246	PO Box 5290 Forest ON N0N 1J0
Scott Dowton	victoria@hearttohomemeals.ca	Toll Free: 1-844-812-1974	629 Dunedin Street Victoria, BC V8T2L7
Teri & Mike Staley	york@hearttohomemeals.ca	Toll Free: 1-800-526-2679	5 Furbacher Lane Unit 2 Aurora, On L4G6W2
Tim Young	ottawa@hearttohomemeals.ca	Main: 613-489-3900 Toll Free: 1-844-489-3900	6735 Farmstead Ridge North Gower, ON K0A 2T0
Tracy Brunt	calgary@hearttohomemeals.ca	Main: 403-374-6816 Toll Free: 1-844-431-2800	63 Scenic Way NW Calgary, AB T3L 1B3
Wayne & Lisa Miller	novascotia@hearttohomemeals.ca	Main: 902-444-2230 Toll Free: 1-833-444-2230	60 Commercial Drive Harrietsfield, NS B3V 1A4
Youla & Vivek Thomas	vancouver@hearttohomemeals.ca	Main: 604 813 4963	Unit B, 4642 London Cresc., Delta, BC V4K4W8

## SCHEDULE D

### Former Heart to Home Meals Franchisees

Franchisee's Name	Date left the system	Email Address	Reason
Krystal Joseph	2023-03-31	krystal.joseph@gmail.com	Terminated

Franchisee's Name	Date left the system	Email Address	Reason
Tim Turcotte	2021-12-01	timjokar@gmail.com	Retirement.
Loretta Rampel, Kirby H	2021-07-01	kirby_harmon@3sisecurity.co	Retirement.

## SCHEDULE E

### Reasons for Closure

Terminated	Cancelled	Not Renewed	Reacquired by Franchisor	Transfer/Sale of Business	Other
1				1	1

**Exhibit G**  
**Closing Acknowledgement**

## **Forms of Closing Acknowledgement**



**HEART TO HOME MEALS  
FRANCHISE CLOSING ACKNOWLEDGMENT**

**(Not used for transactions in California, Hawaii, Illinois, Maryland, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia and Washington)**

As you know, you (or the entity you represent) and we are entering into a Franchise Agreement to operate a Franchised Business with HTHM Franchising, LLC (“Franchisor”). The purpose of this Closing Acknowledgment is to determine whether any statements or promises were made to you on which you have relied that we have not authorized or that may be untrue, inaccurate or misleading. Please review each of the following questions carefully and provide honest, accurate and complete responses to each question.

**Acknowledgments and Representations\*.**

Did you receive a copy of our Franchise Disclosure Document (“FDD”) (and all exhibits and attachments) at least 14 calendar days (or at the first personal meeting in Iowa or New York, or least 10 business days if you are in Connecticut, Michigan or New York), before you signed the Franchise Agreement? **Check one:**  **Yes**  **No**. If no, please tell us if and when you received the FDD and when you signed the Franchise Agreement. Please explain why you signed the Franchise Agreement before the 14 days expired:

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Did you receive a copy of the Franchise Agreement at least 7 days before you signed the Agreement? **Check one:**  **Yes**  **No**. If no, tell us when you received the Franchise Agreement and when you signed it. Please explain why you signed the Franchise Agreement when you did:

---

---

Was any oral, written or visual claim, statement, presentation or representation made to you on which you relied in making your decision to sign the Franchise Agreement that contradicted the disclosures in the FDD? **Check one:**  **Yes**  **No**. If yes, please explain in detail the oral, written or visual statement, presentation, claim or representation:

---

---

Except for any financial performance representation included as Item 19 in our FDD, did any employee or other person speaking on our behalf make any oral, written or visual claim, statement, promise or representation to you that stated, suggested, predicted or projected sales, revenues, expenses, earnings, income or profit levels at any Franchised Business franchise, or the likelihood of success at your Franchised Business on which you relied in making your decision to sign the Franchise Agreement? **Check one:**  **Yes**  **No**. If yes, please explain in detail who made and what you understand is the oral, written or visual claim, statement, promise or representation:

---

---

---

\*Such representations are not intended to, nor shall they act as a release, estoppel or waiver of any liability incurred under the Illinois Franchise Disclosure Act or under the Maryland Franchise Registration and Disclosure Law, if either or both such laws apply to this transaction.

Except for any financial performance representation included as Item 19 in our FDD did any employee or other person speaking on our behalf make any statement or promise regarding the costs involved in operating a franchise that is not contained in the FDD or that is contrary to, or different from, the information contained in the FDD on which you relied in making your decision to sign the Franchise Agreement? **Check one:**  **Yes**  **No**. If yes, please identify who made the statement or promise and what you understand are the details of the statement or promise.

---

---

Do you understand that the franchise granted in the Franchise Agreement (a) allows you to operate a Franchised Business only at the Franchised Location, (b) prevents us from operating or franchising another Franchised Business only in the Protected Area described in the Franchise Agreement, (c) allows us to operate or franchise a Franchised Business anywhere outside the Protected Area, and (d) allows us to open and operate or authorize any other party to open and operate a Nontraditional Concept Business in your Protected Area? **Check one:**  **Yes**  **No**. If no, please comment:

---

---

Do you understand that the Franchise Agreement contains the entire agreement between you and us concerning the franchise for the Franchised Business or the development rights we grant to you, meaning that any prior oral or written agreements not set out in the Franchise Agreement or the FDD will not be binding? **Check one:**  **Yes**  **No**. If no, please comment:

---

---

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.

**NOTE: IF THE FRANCHISEE IS A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER ENTITY, EACH OF ITS GUARANTORS MUST EXECUTE THIS ACKNOWLEDGMENT.**

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

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

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

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

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

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

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

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

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

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

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

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

**ACCEPTED ON BEHALF OF:**

**HTHM Franchising, LLC**

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

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

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

**HEART TO HOME MEALS  
FRANCHISE CLOSING ACKNOWLEDGMENT**

**For use only in Illinois, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia  
and Washington**

**NOT FOR USE IN CALIFORNIA OR MARYLAND**

As you know, you (or the entity you represent) and we are entering into a Franchise Agreement to operate a Franchised Business with HTHM Franchising, LLC (“Franchisor”). The purpose of this Closing Acknowledgment is to determine whether any statements or promises were made to you on which you have relied that we have not authorized or that may be untrue, inaccurate or misleading. Please review each of the following questions carefully and provide honest, accurate and complete responses to each question.

**Acknowledgments and Representations\*.**

Did you receive a copy of our Franchise Disclosure Document (“FDD”) (and all exhibits and attachments) at least 14 calendar days (or at the first personal meeting in Iowa or New York, or least 10 business days if you are in Connecticut, Michigan or New York), before you signed the Franchise Agreement? **Check one:**  **Yes**  **No**. If no, please tell us if and when you received the FDD and when you signed the Franchise Agreement. Please explain why you signed the Franchise Agreement before the 14 days expired:

\_\_\_\_\_  
\_\_\_\_\_

Did you receive a copy of the Franchise Agreement at least 7 days before you signed the Agreement? **Check one:**  **Yes**  **No**. If no, tell us when you received the Franchise Agreement and when you signed it. Please explain why you signed the Franchise Agreement when you did:

\_\_\_\_\_  
\_\_\_\_\_

Was any oral, written or visual claim, statement, presentation or representation made to you on which you relied in making your decision to sign the Franchise Agreement that contradicted the disclosures in the FDD? **Check one:**  **Yes**  **No**. If yes, please explain in detail the oral, written or visual statement, presentation, claim or representation:

\_\_\_\_\_  
\_\_\_\_\_

Except for any financial performance representation included as Item 19 in our FDD, did any employee or other person speaking on our behalf make any oral, written or visual claim, statement, promise or representation to you that stated, suggested, predicted or projected sales, revenues, expenses, earnings, income or profit levels at any Franchised Business franchise, or the likelihood of success at your Franchised Business on which you relied in making your decision to sign the Franchise Agreement? **Check one:**  **Yes**  **No**. If yes, please explain in detail who made and what you understand is the oral, written or visual claim, statement, promise or representation:

\_\_\_\_\_  
\_\_\_\_\_

\*Such representations are not intended to, nor shall they act as a release, estoppel or waiver of any liability incurred under the Illinois Franchise Disclosure Act or under the Maryland Franchise Registration and Disclosure Law, if either or both such laws apply to this transaction.

---

Except for any financial performance representation included as Item 19 in our FDD did any employee or other person speaking on our behalf make any statement or promise regarding the costs involved in operating a franchise that is not contained in the FDD or that is contrary to, or different from, the information contained in the FDD on which you relied in making your decision to sign the Franchise Agreement? **Check one:**  Yes  No. If yes, please identify who made the statement or promise and what you understand are the details of the statement or promise.

---

---

Do you understand that the franchise granted in the Franchise Agreement (a) allows you to operate a Franchised Business only at the Franchised Location, (b) prevents us from operating or franchising another Franchised Business only in the Protected Area described in the Franchise Agreement, (c) allows us to operate or franchise a Franchised Business anywhere outside the Protected Area, and (d) allows us to open and operate or authorize any other party to open and operate a Nontraditional Concept Retailer in your Protected Area? **Check one:**  Yes  No. If no, please comment:

---

---

Do you understand that the Franchise Agreement contains the entire agreement between you and us concerning the franchise for the Franchised Business or the development rights we grant to you, meaning that any prior oral or written agreements not set out in the Franchise Agreement or the FDD will not be binding? **Check one:**  Yes  No. If no, please comment:

---

---

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.

**NOTE: IF THE FRANCHISEE IS A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER ENTITY, EACH OF ITS GUARANTORS MUST EXECUTE THIS ACKNOWLEDGMENT.**

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

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

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

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

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

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

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

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

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

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

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

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

**ACCEPTED ON BEHALF OF:**

**HTHM Franchising, LLC**

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

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

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

**Exhibit H**  
**General Release**

## 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>Registration Date</b>
Illinois	Pending
Indiana	Pending
Maryland	Pending
Michigan	Pending
Minnesota	Pending
New York	Pending
Rhode Island	Pending
Virginia	Pending
Wisconsin	Pending

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.



## RECEIPT OF FRANCHISE DISCLOSURE DOCUMENT

This Disclosure Document summarizes certain provisions of the Franchise Agreement and other information in plain English. Read this Disclosure Document and all agreements carefully.

If HTHM Franchising, LLC (“Franchisor”) offers you a franchise, we must provide this Disclosure Document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the Franchisor or an affiliate in connection with the proposed franchise sale. New York requires that we give you this Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Iowa requires that we give you this Disclosure Document at the earlier of the first personal meeting or 14 days before you sign a binding contract or pay any consideration. 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 Franchisor 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 law and state law may have occurred and you should report it to the Federal Trade Commission, Washington, D.C. 20580, and the applicable state agency listed on Exhibit D to this Franchise Disclosure Document.

Franchisor is located at 289 Elm Street, Suite 102, Marlborough, MA 01752. Its telephone number is 508 658-3000. The franchise seller for this offering is Christopher Webb at 289 Elm Street, Suite 102, Marlborough, MA 01752, telephone number 617 990-6783.

Issuance Date: February 4, 2024.

Franchisor has authorized the persons listed on Exhibit D to this Disclosure Document to receive service of process for us in Massachusetts and states where our franchise is registered.

I have received Franchisor’s Disclosure Document, dated February 4, 2024 (or the later date set forth for each applicable state on Exhibit D to this Franchise Disclosure Document), which includes the following exhibits:

- |                                                               |                                           |
|---------------------------------------------------------------|-------------------------------------------|
| A. Franchise Agreement                                        | E. Table of Contents of Operations Manual |
| B. Disclosure Document and Addenda Required by Certain States | F. Names and Addresses of Franchisees     |
| C. Financial Statements                                       | G. Closing Acknowledgement                |
| D. State Administrators and Agents for Service of Process     | H. General Release                        |

\_\_\_\_\_  
Date of Signature  
(Do not leave blank)

\_\_\_\_\_  
Signature of Prospective Franchisee (for the prospective franchisee and any corporation, partnership or other business entity having or proposed to have an interest in the franchise or any proposed franchised location)

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

You may return the signed receipt either by signing, dating, and mailing it to HTHM Franchising, LLC at 289 Elm Street, Suite 102, Marlborough, MA 01752 or by scanning and emailing a copy of the signed and dated receipt to HTHM Franchising, LLC at [chris.webb@hearttohomemeals.com](mailto:chris.webb@hearttohomemeals.com).

## RECEIPT OF FRANCHISE DISCLOSURE DOCUMENT

This Disclosure Document summarizes certain provisions of the Franchise Agreement and other information in plain English. Read this Disclosure Document and all agreements carefully.

If HTHM Franchising, LLC (“Franchisor”) offers you a franchise, we must provide this Disclosure Document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the Franchisor or an affiliate in connection with the proposed franchise sale. New York requires that we give you this Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Iowa requires that we give you this Disclosure Document at the earlier of the first personal meeting or 14 days before you sign a binding contract or pay any consideration. 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 Franchisor 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 law and state law may have occurred and you should report it to the Federal Trade Commission, Washington, D.C. 20580, and the applicable state agency listed on Exhibit D to this Franchise Disclosure Document.

Franchisor is located at 289 Elm Street, Suite 102, Marlborough, MA 01752. Its telephone number is 508 658-3000. The franchise seller for this offering is Christopher Webb at 289 Elm Street, Suite 102, Marlborough, MA 01752, telephone number 617 990-6783.

Issuance Date: February 4, 2024.

Franchisor has authorized the persons listed on Exhibit D to this Disclosure Document to receive service of process for us in Massachusetts and states where our franchise is registered.

I have received Franchisor’s Disclosure Document, dated February 4, 2024 (or the later date set forth for each applicable state on Exhibit D to this Franchise Disclosure Document), which includes the following exhibits:

- |                                                               |                                           |
|---------------------------------------------------------------|-------------------------------------------|
| A. Franchise Agreement                                        | E. Table of Contents of Operations Manual |
| B. Disclosure Document and Addenda Required by Certain States | F. Names and Addresses of Franchisees     |
| C. Financial Statements                                       | G. Closing Acknowledgement                |
| D. State Administrators and Agents for Service of Process     | H. General Release                        |

\_\_\_\_\_  
Date of Signature  
(Do not leave blank)

\_\_\_\_\_  
Signature of Prospective Franchisee (for the prospective franchisee and any corporation, partnership or other business entity having or proposed to have an interest in the franchise or any proposed franchised location)

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

You may return the signed receipt either by signing, dating, and mailing it to HTHM Franchising, LLC at 289 Elm Street, Suite 102, Marlborough, MA 01752 or by scanning and emailing a copy of the signed and dated receipt to HTHM Franchising, LLC at [chris.webb@hearttohomemeals.com](mailto:chris.webb@hearttohomemeals.com).