

## FRANCHISE DISCLOSURE DOCUMENT



ZOUP FRANCHISING CO., LLC  
A Delaware Limited Liability Company  
3135 1<sup>st</sup> Avenue N., Suite 15459  
St. Petersburg, FL 33733  
(610) 894-7753  
<https://franchise.zoup.com>  
[fransales@zoup.com](mailto:fransales@zoup.com)

As a franchisee, you will operate a Zoup! fast casual restaurant featuring a wide variety of soups, sandwiches and salads, cold beverages, and other ancillary products for lunch, dinner, catering and take-home.

The total investment necessary to begin operating a Zoup!® restaurant ranges from \$509,434 - \$699,050. This includes \$35,000 to \$36,000 that must be paid to the franchisor.

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Chief Development Officer, 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, FL 33733, (610) 894-7753 at [fransales@zoup.com](mailto:fransales@zoup.com).

The terms of your franchise agreement will govern your franchise relationship. Don't rely on the disclosure document alone to understand your contracts. Read all of your contracts carefully. Show your contracts 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.

Issuance Date: April 1, 2023

## How to Use This Franchise Disclosure Document

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

QUESTION	WHERE TO FIND INFORMATION
<b>How much can I earn?</b>	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit B or Exhibit C.
<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 E includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only Zoup! 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 Zoup! franchisee?</b>	Item 20 or Exhibit B or Exhibit C lists current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

## What You Need To Know About Franchising *Generally*

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

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

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

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

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

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

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

### Some States Require Registration

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

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

## Special Risks to Consider About *This* Franchise

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in Pennsylvania. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Pennsylvania than in your own state.
2. **Spouse Liability.** Your spouse must sign a document that makes your spouse liable for your financial obligations under the franchise agreement, even though your spouse has no ownership interest in the business. This guarantee will place both your and your spouse's personal and marital assets, perhaps including your house, at risk if your franchise fails.

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

## MICHIGAN NOTICE

**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 assents to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in the Michigan Franchise Investment Law. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits a franchisor to terminate a franchise before 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 sell 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 3<sup>rd</sup> 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 that permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to franchisee unless provision has been made for providing the required contractual services.

**The fact that there is a notice of this offer 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 Michigan Department of Attorney General, Consumer Protection Division, 670 Law Building, Lansing, MI 48913, telephone: (517) 373-7117.

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## Item 1

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

To simplify the language in this disclosure document, “we”, “us”, “our” or “Zoup!” means **Zoup Franchising Co., LLC**, the franchisor of this business. “You” means the person who buys the franchise and includes your owners if you are a corporation or other business entity.

#### Franchisor, Parents, Predecessor, and Affiliates

We are a Delaware limited liability company formed on February 9, 2022 and maintain our principal place of business at 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, Florida 33733. We only offer franchises under the “Zoup!®” trademarks. We have not engaged in any business activities nor offered franchises in any other lines of business. We do business only as "Zoup Franchising Co., LLC" and "Zoup" and do not intend to do business under any other name.

We have a parent company, Zoup Restaurant Co., LLC, a Delaware limited liability company formed on February 9, 2022 with its principal place of business located at 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, Florida, 33733. Zoup Restaurant Co., LLC has not offered franchises in any line of business.

Restaurant Co., LLC dba WOWorks (“WOWorks”), a Delaware limited liability company, is the sole member of Zoup Restaurant Co., LLC. CLP Dining, LLC (“CLP”), also a Delaware limited liability company, is the sole member of WOWorks. WOWorks and CLP maintain a principal place of business at 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, Florida 33733. WOWorks guarantees our performance (see Item 21). Neither WOWorks nor CLP have offered franchises in any line of business.

Our predecessor is Zoup! Systems, L.L.C., a Michigan limited liability company formed on September 2, 2002, with its principal place of business located at 28555 Orchard Lake Rd. Farmington Hills, Michigan 48334. Zoup! Systems, L.L.C. offered Zoup! franchises from January 2003 to April 2022. Zoup! Systems, L.L.C. did not engage in any other business activities and did not offer franchises in any other line of business.

On May 10, 2022, Zoup Restaurant Co., LLC acquired substantially all of the assets of our predecessor, including substantially all of the existing franchise agreements, including substantially all of the existing franchise agreements, area development agreements and all intellectual property, including the trademarked name “Zoup!”. As of the date of this Franchise Disclosure Document, there were sixty-four 64 franchised locations operating in Colorado, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Minnesota, New England, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Virginia, Wisconsin and Ontario (Canada) and still more are under development. Our parent also assumed 1 corporate-owned Zoup! outlet located in Michigan, which we continue to operate through our affiliate. As a result of the sale, we are the new franchisor of “Zoup!” franchise system and began offering franchises on October 20, 2022.

Zoup BDF, LLC (“ZBF”), is a Delaware limited liability company formed on February 9<sup>th</sup>, 2022 with its principal place of business located at 3135 1<sup>st</sup> Ave. N. Suite 15459, St. Petersburg, FL. 33733. Zoup BDF, LLC collects national marketing contributions from our franchisees and maintains, administers and directs marketing activities for our system. Zoup BDF, LLC is our affiliate and has not offered franchises in any line of business.

WOWorks is also the sole member of Saladworks, LLC (“Saladworks”), an Illinois limited liability company, with its principal place of business at 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, Florida, 33733. Saladworks is our affiliate and is the franchisor of the Saladworks franchise system, a food service concept that features a variety of salads, sandwiches, wraps, panini, soups, grain bowls, breads, desserts and beverages. Saladworks has offered Saladworks franchises since June 2015, although its predecessors had franchised the concept beginning in 1992. As of the Issuance Date of this Disclosure Document,

Saladworks has 85 franchised outlets and 8 corporate outlets. Pursuant to an inter-brand licensing agreement, our franchisees may offer Saladworks menu items at their Zoup! outlets.

WOWorks additionally is the sole member of Garbanzo, LLC, the parent company and sole member of Garbanzo Franchising, Co., LLC ("Garbanzo"), a Delaware limited liability company, with its principal place of business at 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, FL 33733. Garbanzo is our affiliate and is the franchisor of the Garbanzo Mediterranean Fresh franchise system, a food service concept that features Mediterranean cuisine. Pursuant to an inter-brand licensing agreement, our franchisees may offer Garbanzo menu items at their Zoup! outlets.

WOWorks additionally is the sole member of SW-Frutta Bowls, LLC, the parent company and sole member of SW-Frutta Bowls Franchising, Co., LLC ("Frutta Bowls"), a Delaware limited liability company, with its principal place of business at 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, FL 33733. Frutta Bowls is our affiliate and is the franchisor of the Frutta Bowls franchise system, a food service concept that features acai, pitaya, kale and fruit bowls and smoothies. Pursuant to an inter-brand licensing agreement, our franchisees may offer Frutta Bowls menu items at their Zoup! outlets.

Lastly, WOWorks additionally is the sole member of Barberitos., LLC, the parent company and sole member of Barberitos Franchising Co., LLC ("Barberitos"), a Delaware limited liability company, with its principal place of business at 3135 1st Ave N., Suite 15459, St. Petersburg, FL 33733. Barberitos is our affiliate and is the franchisor of the Barberitos franchise system, a food service concept that features southwestern cuisine. Pursuant to an inter-brand licensing agreement, our franchisees may offer Barberitos menu items at their Zoup! outlets.

#### Our Business Activities and the Franchised Business

We do business only under our corporate name. We grant franchises for the establishment, development, and operation of unique Zoup! restaurants featuring a variety of soups, sandwiches and salads, cold beverages, and other ancillary products, prepared in accordance with specified recipes and procedures (the "System"). We do not engage in or offer franchises in any other line of business. We have operated, through affiliates, outlets similar to the type being franchised since May 2022. Our agents for service of process are listed in Exhibit F to this disclosure document.

The distinguishing characteristics of the System include standards and specifications for designs, décor, color schemes, furniture, fixtures, equipment, signs, services, and products; product preparation methods, techniques and recipes ("Proprietary Recipes"); sales, merchandising, marketing and advertising techniques and systems; and procedures for the operation and management of Zoup! restaurants, all of which we may change, improve and further develop from time to time. Due to the evolution of the System, some older Zoup! restaurants may offer additional or different menu items from the items on the current System menu.

We have created and developed, and reserve the right to create and develop, private label products, including but not limited to salads, dressings, sandwiches, wraps, panini, soups and other bread and beverage products ("Proprietary Food Products"), as well as paper and plastic products, including all bowls, lids, cups and napkins containing our Proprietary Marks (the "Proprietary Trademarked Products").

We identify Zoup! restaurants by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin, including, but not limited to, the mark "Zoup!," distinctive trade dress and such other trade names, trademarks, and service marks as we now designate or may later designate in writing for use in connection with the System (the "Proprietary Marks"). We continue to develop, use, and control the use of such Proprietary Marks in order to identify for the public the source of services and products marketed under the Proprietary Marks and the System, and to represent the System's high standards of quality, appearance and service.



## Market and Competition

A Zoup! restaurant will offer its products to the general public. A Zoup! restaurant will compete primarily with other local businesses, as well as local, regional, national, and international chains offering quick service take-out food in the same mall or center or in proximity to your location for the service of this clientele. The fast-casual restaurant segment and the restaurant industry in general is a mature and highly competitive industry. Your competitive advantage will be based on competition around your restaurant and the quality of your food and service.

## Laws and Regulations

A Zoup! restaurant is subject to federal, state and local laws, ordinances and regulations specifically applicable to the restaurant industry, including regulations relating to occupational hazards and health, the preparation and dispensing of food products, and menu labeling.

A Zoup! restaurant also is subject to federal, state and local laws and regulations that are applicable to businesses generally, including federal laws such as the Fair Labor Standards Act, National Labor Relations Act and Americans with Disabilities Act, and laws and regulations governing matters such as zoning, construction, business licensing, health and safety, minimum wages, overtime, working conditions, workers' compensation insurance, unemployment insurance, consumer protection, trade regulation, environmental protection, and taxation.

We advise you to investigate these laws and regulations before purchasing a franchise from us.

## **Item 2 BUSINESS EXPERIENCE**

### Bryan Kelly Roddy: Chief Executive Officer and President

Bryan Kelly Roddy is our Chief Executive Officer and President, a position he has held since February 2022. Kelly is also the Chief Executive Officer and President of our affiliates: Saladworks, LLC, since August 2019, Garbanzo Franchising Co., LLC and SW-Frutta Bowls Franchising Co., LLC, since December 2020, and Barberitos Franchising Co., LLC since February 2022. From March 2017 to August 2019, Kelly was the President of Schlotzsky's Franchisor SPV, LLC, and from December 2007 to August 2019, Kelly was President of Schlotzsky's Franchise, LLC in Atlanta Georgia.

### Alain Souligny: Chief Financial Officer

Alain Souligny is our Chief Financial Officer, Secretary and Treasurer, a position he has held since February 2022. Alain is also the Chief Financial Officer of our affiliates: Saladworks, LLC, since January 2019, Garbanzo Franchising Co., LLC and SW-Frutta Bowls Franchising Co., LLC, since December 2020, and Barberitos Franchising Co., LLC since February 2022. From October 2015 to January 2019, he was the Chief Financial Officer of Redco Foods in Little Falls, New York and was Chief Executive Officer during his last year with the company. From April 2014 to October 2015, he was Chief Financial Officer of Delorios Foods, Inc. in Utica, New York. From April 2011 to April 2014, he was Vice President of Finance and Chief Financial Officer of Fearman's Pork Inc. in Burlington, Ontario, Canada.

### Lauriena Borstein: Chief Brand Officer

Lauriena Borstein is our Chief Brand Officer, a position she has held since May 2022. Lauriena is also the Chief Brand Officer of our affiliates: Saladworks, LLC, and SW-Frutta Bowls Franchising Co., LLC, since May 2022. Lauriena previously served as the Vice President of Operations of our affiliate Saladworks, LLC from May 2019 to May 2022, and our affiliate Garbanzo Franchising Co., LLC, from

December 2020 to May 2022, and as Vice President of Operations and General Manager of our affiliate SW-Frutta Bowls Franchising Co., LLC, from December 2020 to May 2022. From December 2016 to April 2019, Lauriena served as Senior Vice President of Operations for Rita's Franchise Company in Trevoze, Pennsylvania. She also served as Senior Vice President of Rita's predecessor, Project Rayban Franchise Company, LLC from January 2012 to December 2016, and as Project Rayban Franchise Company, LLC's Director of Franchise Development from March 2010 through December 2011 and as Manager of Franchise Development from July 2007 through February 2010.

Brian Farris: Chief Development Officer

Brian Farris is our Chief Development Officer, a position he has held since February 2022. Brian is also the Chief Development Officer of our affiliates Saladworks, LLC, Garbanzo Franchising Co., LLC and SW-Frutta Bowls Franchising Co., LLC, since January 2022, and Barberitos Franchising Co., LLC since February 2022. From June 2019 to December 2021, Brian served as Brand President of The Intelligent Office, LLC in Denver Colorado. From June 2013 to May 2019 Brian worked for FOCUS Brands in Atlanta, Georgia where he held multiple executive positions supporting Schlotzsky's domestically and Cinnabon and Auntie Anne's internationally.

Kyle Mark: Chief Information officer

Kyle Mark is our Chief Information Officer, a position he has held since March 2022. Kyle has also served as the Chief Information Officer for our affiliates SW-Frutta Bowls Franchising Co., LLC, Garbanzo Franchising Co., LLC, Barberitos Franchising Co., LLC, and Zoup Franchising Co., LLC, since March 2022. Kyle previously served as the Director of Operations for Qu POS from September 2021 to March 2022 in Bethesda, Maryland. From October 2019 until April of 2021, he was the Director of Technology for Ciccio Restaurant Group and their portfolio of fast casual brands in Tampa, Florida. He served as Director of Technology for Gecko's Hospitality Group from June 2016 to October 2019 in Sarasota, Florida.

Jean Boland: Chief People and Culture Officer

Jean is our Chief People and Culture Officer, a position she had held since April 2022. Jean has also served as the Chief People and Culture Officer for our affiliates SW-Frutta Bowls Franchising Co., LLC, Garbanzo Franchising Co., LLC, Barberitos Franchising Co., LLC, and Saladworks, LLC, since April 2022. Jean previously served as Vice President of Human Resources for Santek Waste Services, LLC in Cleveland, Tennessee from September 2015 to January 2019. She also served as Chief People Officer and Vice President of Human Resources for Saladworks, LLC from December 2019 through October 2021 and for Garbanzo Franchising Co., LLC and SW-Frutta Bowls Franchising Co., LLC, from December 2020 through October 2021. Most recently she served as Chief People Officer for OMS360 from November 2021 through April 2022.

Jason Rennie: Vice President of Operations

Jason Rennie is our Vice President of Operations, a position he has held since June 2022. Previously, Jason had been Little Caesars Enterprises Regional Director of Franchise Services from October 2017 to June 2022. Prior to joining the Company, Mr. Rennie served as Director of Operations for Express Stop (a franchisee of Little Caesars, Dunkin Donuts and Subway) located in Brighton, Michigan from August 2012 through October 2017.

Lori Kern: Vice President of Marketing

Lori Kern is our Vice President of Marketing, a position she has held since May 2022. Lori also serves as the Vice President of Marketing for of our affiliates Saladworks, LLC, since February 2020 and SW-Frutta

Bowls Franchising Co., LLC, since December 2020. From December 2016 to November 2019, Lori served as Senior Director of Marketing for Schlotzsky's in Atlanta, Georgia.

**Item 3  
LITIGATION**

No litigation is required to be disclosed in this Franchise Disclosure Document.

**Item 4  
BANKRUPTCY**

No bankruptcy information is required to be disclosed in this Franchise Disclosure Document.

**Item 5  
INITIAL FEES**

Single Unit Franchise Agreement

We offer approved prospects the right to open a Zoup! restaurant at a single location. If we grant you the right to open a restaurant, you must sign a franchise agreement and pay the \$35,000 initial franchise fee to us when you sign the franchise agreement. The initial franchise fee is non-refundable when paid. We also offer approved prospects the right to purchase multiple Zoup! restaurants simultaneously, each under a separate franchise agreement. From time to time, we may offer special incentive programs as part of our franchise development activities. We reserve the right to offer, modify or withdraw any incentive program without notice to you. We are a member of the International Franchise Association ("IFA") and participate in IFA's VetFran Program, which provides special financial incentives to qualified veterans. We currently offer a twenty-five percent (25%) discount of the initial franchise fee to active members and honorably discharged veterans of the U.S. Armed Forces, including a spouse or widow of an active member or honorably discharged veteran. We also currently offer a twenty-five percent (25%) discount of the initial franchise fee to first responders.

Architectural Plan Review Fee

We will provide you with our Prototype Design Package ("PDP") at no charge. If you do not use our preferred architect, the PDP is to be used by your local architect, identified and engaged by you, to prepare site-specific scaled architectural, mechanical, electrical and plumbing drawings for the permitting and buildout of your restaurant ("architectural plans"). We or a third-party vendor that we select will review the architectural plans prepared by your local architect, including any revisions to the architectural plans, to ensure adherence to our standards based on the PDP. The fee for the architectural plan review is \$1,000 and is payable when you request the PDP. The architectural plan review fee is waived if you use our preferred architect.

**Item 6  
OTHER FEES**

Fee	Amount	Due Date	Remarks
Royalty Fee	6% of Net Sales	Wednesday of each week	See Note 1
Brand Development Fund Advertising Fee	3%	Wednesday of each week	See Note 2
Local Advertising and Promotion	2% of Net Sales	As Incurred	See Note 3
Training and Customer Service Fees	0.5% of gross sales not to exceed 1% of gross sales	Wednesday of each week	See Note 4
Technology License and Development Fee	\$146.42, subject to increase	Wednesday of each week	See Note 5
Bookkeeping Service Fees	\$50 per month after signing lease and until Restaurant opens; \$300 per month after Restaurant opens; additional charge of \$75 per month if you do not assist with coding of unidentified credit card purchases	The first business day of each month, in advance	See Note 6
Unauthorized Advertising Fee	\$1,000 per occurrence	When billed	See Note 7
Sublease Fee or Guaranty Fee	0.5% of Net Sales	As incurred	See Note 8
Site Selection Extension Fee	\$1,500	As incurred	See Note 9
Maintenance/ Repair/ Refurbishing	Actual amount incurred	As incurred	See Note 10
Grand Re-Opening Marketing Fee	\$5,000	As incurred	See Note 10
Transfer Fee	(i) 50% of our then-current initial franchise fee if transferring to an existing franchisee; or (ii) 75% of our then-current initial franchise fee if transferring to a new owner. The fee to transfer ownership among existing partners only is \$2,000.	Before the transfer	See Note 11
Commission	5% to 10% of gross purchase price	At closing	See Note 12
Interest	Lesser of 18% per year, or highest rate allowed by law, plus \$100 (In California, the highest lawful rate of interest is 10% per annum.)	As incurred	See Note 12
Insufficient Funds Fee	Lesser of 18% per year, or highest rate allowed by law, plus \$100	As incurred	See Note 12
Costs & Attorneys' Fees	Actual amount incurred	As incurred	See Note 12
Audit Expenses	Actual amount incurred; cost ranges from \$250 to \$7,500	As Incurred	See Note 13
Insurance	Cost of insurance. If you fail to maintain your insurance as required, there is an 18% administrative cost charge if we exercise our right to procure your insurance	As required by insurer or broker	See Note 14
Renewal Fee	\$17,500	On renewal	See Note 15
Service Fee	\$600 per day	As incurred	See Note 16
Supplier Evaluation Fee	A minimum of \$500	As incurred	See Note 17
Annual Convention	Your travel and lodging expenses	As incurred	See Note 18
Failure to Attend Annual Convention	\$1,000	As incurred	See Note 18

<b>Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Training Cancellation Fee	Currently \$400 per person	As incurred	See Note 19
Food Safety and Operations Excellence Report Fee	Actual amount incurred	As incurred	See Note 20
Guest Complaint Resolution Fee	\$10 - \$100	As incurred	See Note 21
Critical Operating Standards Violation	\$250 - \$1,000	As incurred	See Note 22
Additional Requested Store Opening Assistance & Additional Requested On-Site Assistance	Currently, \$500 per person per day, plus expenses	As requested	See Note 23
Additional Training	Travel and lodging expenses	As incurred	See Note 24
Training for Replacement Personnel	Travel and lodging expenses	As incurred	See Note 25
Survey Fee	Actual amount incurred	As designated	See Note 26
Use of Proprietary Marks	Actual amount incurred	As designated	See Note 27
Indemnification	Actual amount incurred	As incurred	See Note 28
Liquidated Damages	Up to 36 months of Royalty Fees and Brand Fund Contribution	Upon termination of the Franchise Agreement due to your default	See Note 29

The table above describes recurring or isolated fees or payments that you must pay us or our affiliates, or which we or our affiliates impose or collect on behalf of a 3<sup>rd</sup> party, in whole or in part. Unless otherwise indicated, all of the fees listed above are uniformly imposed by, payable to and collected by us and are non-refundable.

Notes.

Note 1. **Royalty Fee.** You must pay us a weekly royalty fee equal to **6%** of your Net Sales. Royalty fees are based on “Net Sales”. “Net Sales” includes all revenue you generate from all business conducted at or from your restaurant during the preceding reporting period, including amounts received from the sale and delivery of services, products, and merchandise of any nature whatsoever, whether in cash or for credit, and whether collected or uncollected. Net Sales includes the full amount payable by your customers, without deduction for your own or third-party delivery costs. Net Sales does not include the amount of any applicable sales tax imposed by any federal, state, municipal or other governmental authority if such taxes are stated separately when the customer is charged and you pay the amounts when due to the appropriate taxing authority. Net Sales does not include discounts, employee discounts or coupons that you honor. All barter and exchange transactions for which you furnish services or products in exchange for goods or services to be provided to you by a vendor, supplier or customer will be valued at the full retail value of the goods or services provided to you. If the Net Sales data has not been received within the time period required by the franchise agreement, then we may process an electronic funds transfer for the subject week in the amount of 125% of the last royalty fee and advertising fee paid to us (the “Automatic Draw”), provided that, if a Net Sales data for the subject week is subsequently received and reflects: (i) that the actual amount of the fee due was more than the amount of the Automatic Draw, then we may withdraw additional funds through an electronic funds transfer from your designated bank account for the difference; or (ii) that the actual amount of the fee due was less than the amount of the Automatic Draw, then we will credit the excess amount to the payment of your future obligations.

Note 2. **Brand Development Fund.** We have established a Brand Development Fund for the common benefit of our franchisees. You must participate in and pay weekly an advertising fee to the Brand Development Fund in the manner we prescribe. Currently, you must pay 3% of Net Sales. You must pay the advertising fee in the same manner as the royalty fees due under the franchise agreement. In 2016, we signed an agency agreement with our affiliate, ZBF, allowing us to hold the Brand Development Fund on our behalf. We may require that a regional advertising cooperative and/or franchisee advisory council be formed, changed, dissolved or merged. Franchisor-owned outlets will not have any voting power to determine any fees imposed by the regional advertising cooperative(s). If 50% or more of voting Zoup! franchisees elect to increase the advertising fees paid to the Brand Development Fund to higher levels, you must pay at the new percentage level.

Note 3. **Local Advertising and Promotion.** You must make the following expenditures on local advertising and promotion (the “Local Advertising Requirement”): 2% of your annual Net Sales. You must spend the Local Advertising Requirement as we prescribe in the Operations Manuals or otherwise in writing, which may include, without limitation, requirements for placing a certain number and/or type(s) of media advertisements, regardless of the amount(s) spent by other Zoup! franchisees on local advertising. You may spend any additional sums you wish on local advertising. You must use only such advertising and promotional materials as we have previously approved. You will submit to us an annual plan for your expenditure of your local marketing budget. On our request, you will submit verification of the Local Advertising Requirement to us. If you fail to meet or substantiate the Local Advertising Requirement, we will require you to submit the entire 2% of Net Sales directly to us via EFT, which will then go into the Brand Development Fund.

Note 4. **Training and Customer Service Fees.** We may increase the training and customer service fee you must pay to an amount not to exceed 1% of gross sales on 30 days written notice to you. Currently this fee is 0.5% of gross sales. We will use training and customer service fees to pay for outside services relating to training and customer service for all Restaurants, including, but not limited to, email responses for customer comments, web-based reporting of customer comments, mystery shoppers and reporting and web-based store training, and for our administrative expenses and overhead relating to the administration of the fees and the services provided.

Note 5. **Technology License and Development Fee.** We have established a mandatory technology license and development fee for our past and future services in the development and maintenance of the Technology Systems and other technology for use by Restaurants and for payment to third-party vendors for the services that we and our designated vendors have provided and may provide in the future to develop and maintain the Technology Systems. You must pay us this fee via electronic funds transfer (“EFT”) for these services.

Note 6. **Bookkeeping Service Fees.** You must use the bookkeeping service vendor specified by us until you have been operating for 12 full calendar months. This fee is paid directly to the vendor.

Note 7. **Unauthorized Advertising Fee.** If you use unapproved advertising or marketing materials, you must pay us \$1,000 per occurrence.

Note 8. **Sublease or Guaranty Fee.** In certain circumstances, we or our affiliate may, in our sole discretion, sign a lease for the premises of your restaurant and sublease it to you or, at the request of the Landlord, we may, in certain circumstances, guaranty the obligations under the lease for the restaurant. If we or our affiliate do so, you must sign a sublease with us or our affiliate. Some of the terms of the sublease will depend on the terms of the master lease, but the standard form Sublease is attached to this disclosure document as Exhibit I.

Note 9. **Site Selection Extension Fee.** You are required to obtain a site for the Restaurant which is acceptable to us within 6 months of signing the Franchise Agreement. You may request a one-time extension of this deadline, which will be granted in our reasonable discretion, provided that (i) you make

such request no later than fifteen (15) days prior to the expiration of the original deadline and (ii) you have paid to us a site extension fee of One Thousand Five Hundred Dollars (\$1,500), which is due and payable at the time you make the site extension request.

**Note 10. Maintenance/ Repair/ Refurbishing.** You agree to repair, refinish, repaint, replace, and/or otherwise redo your restaurant's signs, furnishings, fixtures, equipment, decor, and any other tangible part or property of your restaurant at your sole expense at such times as we may reasonably direct. Your maintenance and repair costs may vary significantly based on economic conditions, your location, the condition of your restaurant and your furnishings, fixtures, equipment, decor and equipment, and the nature of the repair and the service providers chosen to perform the maintenance and repairs. Therefore, we have not provided an estimate. You agree that we may direct you to remodel, re-equip, and otherwise refurbish your restaurant premises in the manner necessary to bring it into conformance with other franchises of the type we and our franchisees are opening at the time of such direction. Your refurbishing costs may vary significantly based on your location, the condition of your restaurant and your furniture, fixtures and equipment, the scope of the changes required to bring your restaurant into conformity, and the contractors you select to perform the work. Therefore, we have not provided an estimate. Following a re-model of your restaurant, you are required to spend at least \$5,000 for local grand re-opening marketing and advertising.

**Note 10. Transfer Fee.** We have the right to condition the proposed sale or transfer of your restaurant or of your interest in your restaurant on your payment of a transfer fee equal to (i) 50% of our then-current initial franchise fee when transferring to an existing franchisee, or (ii) 75% of our then-current initial franchise fee if transferring to a new, non-franchisee. However, if certain conditions are met, there is not a transfer fee if you are an individual and transfer ownership to a corporation or limited liability company that you control.

**Note 11. Commission.** If we assist you in selling your restaurant, we will receive at closing a commission in the amount of 5% percent of the gross purchase price. If you sell or transfer your restaurant to a buyer who was in contact with us before you and contacted you during the buyer's franchise due diligence process, we will receive at closing a commission in the amount of 10% percent of the gross purchase price.

**Note 12. Interest, Insufficient Funds and Costs & Attorneys' Fees.** Any late payment or underpayment of the royalty fee or advertising fee, and any other charges or fees you owe us, will bear interest from the due date until paid at the lesser of 18% interest per year or the highest lawful interest rate which we may charge for commercial transactions in the state in which your restaurant is located, plus a fee of \$100 (In California, the highest interest rate allowed by law is 10%, per year). Also, if the funds in your bank account are insufficient to cover any amounts due under the franchise agreement on the date the funds are to be withdrawn by electronic transfer, in addition to the overdue amount, we may immediately debit from your bank account interest on that amount from the date it was due until all past due amounts are paid, at a rate of the lesser of 18% per year or the maximum rate permitted by law, plus a fee of \$100 (In Minnesota, the fee for an insufficient funds check will be \$30). If you are in breach or default of any monetary or non-monetary material obligation (including failure to properly use our Proprietary Marks) under the franchise agreement or any related agreement between you and us, and we engage an attorney to enforce our respective rights (whether or not we initiate formal judicial proceedings), you must reimburse us for all reasonable attorneys' fees, court costs and litigation expenses we incur. If you institute any legal action against us in connection with the franchise agreement or any other agreement between you and us, and your claim is denied or the action is dismissed, you must reimburse us our reasonable attorneys' fees, and all other reasonable costs and expenses incurred in defending against the action. If only part of your claim is denied, you must reimburse us for the proportional attorneys' fees and costs in connection with the claims that were denied and/or dismissed. We are entitled, under the franchise agreement, to have that amount awarded as part of the judgment in the proceeding.

Note 13. **Audit Expenses.** We and our designees have the right to inspect and/or audit your business records at any time during normal business hours, to determine whether you are current with suppliers and are otherwise operating in compliance with the terms of the franchise agreement and the Operations Manuals. If any audit reveals that you have understated your Net Sales or overstated your local advertising expenditures by more than 2%, or if you have failed to submit timely reports and/or remittances for any 2 reporting periods within any 12-month period, in addition to our right to terminate the franchise under Section 15.2 of the franchise agreement, you must pay the reasonable cost of such audit and/or inspection, including the cost of outside auditors and attorneys (to the extent that we incur such costs), together with amounts due for royalty fees, advertising fees and other fees as a result of such underreporting and/or failure to submit reports, along with all late fees and interest which may otherwise be due under the franchise agreement.

Note 14. **Insurance.** You must purchase/procure and maintain public liability insurance, property damage insurance, workers' compensation insurance and any insurance required by law covering the operation and location of your restaurant, with insurance carriers reasonably acceptable to us. See Item 8 of this disclosure document for more information regarding the insurance requirements.

Note 15. **Renewal Fee.** There is a renewal fee of \$17,500.

Note 16. **Service Fee.** If you are in default, we may enter your restaurant premises and exercise complete authority with respect to the operation of your restaurant until such time as we determine, in our sole discretion, that the default has been cured, and you are otherwise in compliance with the franchise agreement. If we exercise this right, you must reimburse us for all our reasonable costs and overhead, if any, incurred in connection with our operation of your restaurant, including costs of personnel for supervising and staffing your restaurant and their reasonable travel, lodging, meal and other expenses.

Note 17. **Supplier Evaluation Fee.** If you wish to purchase any unapproved item, including inventory, and/or acquire approved items from an unapproved supplier, you must provide us the name, address and telephone number of the proposed supplier, a description of the item you wish to purchase, and purchase price of the item, if known. At our request, you must provide us, for testing purposes, a sample of the item you wish to purchase. Your request must be submitted along with a check in the amount of \$500 to cover our costs associated with such examination and/or testing. If we incur any costs above \$500 in connection with testing a particular product or evaluating an unapproved supplier at your request, you or the supplier must reimburse us for our reasonable costs, regardless of whether we subsequently approve the item or supplier.

Note 18. **Annual Convention.** Each year, we may hold an Annual Convention and you must attend. You may be required to pay an attendance fee, and you will be responsible for all costs of attendance, including travel, lodging, meals and other personal expenses. Currently, there is no fee associated with the Annual Convention. All expenses, including your and your attendees' transportation to and from the Annual Convention, and your and their lodging, meals and salaries during the Annual Convention, are your sole responsibility. If you do not attend the Annual Convention, you must pay a \$1,000 penalty fee, payable to us by electronic funds transfer.

Note 19. **Training Cancellation Fees.** If you or any designated trainee either cancels or fails to attend any training class or program (whether in connection with the initial training program or any subsequent training) which we schedule, you must pay us a cancellation fee. Currently, the cancellation fee is \$400 per person, per class or as modified by us in the Operations Manuals.

Note 20. **Food Safety and Operations Excellence Report Fee.** If you fail any inspection or evaluation by us or our third-party inspection vendor, we may perform subsequent visits or food safety compliance inspections, and you must pay our costs and expenses for such visits and inspections.

Note 21. **Guest Complaint Resolution Fee.** If you do not resolve a guest complaint to our standards, we may investigate the matter and take any action we deem necessary to resolve the dispute,



including, but not limited to, the issuance of a refund. You will be required to pay us a Guest Complaint Resolution Fee, in the amount set forth in the Operations Manual, plus any amounts refunded to a customer on your behalf. Currently the fee is \$10 for the first occurrence; \$25 for the second occurrence \$50 for the third occurrence; and \$100 for the fourth and each additional occurrence.

Note 22. **Critical Operating Standards Violation.** We have established a set of Critical Operating Standards, which govern certain aspects of your operations. If you fail to comply with any of the Critical Operating Standards, you must pay us the then-current Critical Operating Standards Violation Fee (“COS Violation Fee”). The amount of the COS Violation Fee is currently no fee for the first occurrence; \$250 to \$1,000 for the second and all subsequent violations.

Note 23. **Additional Requested Store Opening Assistance & Additional Requested On-Site Assistance.** If you request either additional store opening assistance or subsequent additional on-site assistance from us, subject to the availability of our personnel, we will provide you with assistance at the cost of \$500 per person per day, plus the reasonable travel, lodging, meal and other expenses of our personnel.

Note 24. **Additional Training.** We may offer additional training or refresher courses or seminars to be conducted at our headquarters or at another place that we designate, and you and/or your manager may be required to attend these courses. There is currently no fee for participation, but we reserve the right to charge a reasonable fee. You will incur travel and lodging expenses.

Note 25. **Training for Replacement Personnel.** If any of your personnel fail to complete or pass initial training and you must send a replacement to training, or if for any other reason you must send a replacement to training, you must pay their travel and lodging expenses.

Note 26. **Survey Fee.** We or our affiliate, ZBF, may periodically assist Zoup! restaurants to maintain high quality standards through customer surveys, customer interviews, and other similar initiatives (“Surveys”). The cost of the Surveys will be borne by the Brand Development Fund. However, the cost of the Surveys may be charged directly to you if your restaurant’s results from a Survey fall below established minimum standards. Any such fees charged to you will be contributed to the Brand Development Fund.

Note 27. **Use of Proprietary Marks.** If we determine that you have not used the Proprietary Marks in accordance with the franchise agreement, you must pay for the defense or must reimburse us for costs we incurred in providing the defense, including the cost of any judgment or settlement.

Note 28. **Indemnification.** You must indemnify us for: any cost we incur because of your tampering with our system-wide computer network, internet, intranet or extranet system, hardware, Software or Proprietary Software Program; any of your debts and/or taxes for which we may be held responsible; claims, obligations, liabilities and damages arising out of the operation of the Restaurant; claims or obligations related to your improper use of our Proprietary Marks, improper transfer, your infringement of any patent, copyright or any of our proprietary rights, libel, or any form of defamation of us or our system; any attorneys’ fees incurred in our defense of you; any costs or liabilities incurred if we must operate your restaurant for any reason; and any sums we must pay to effectuate your assignment to us of your telephone numbers.

Note 29. **Liquidated Damages.** If the Franchise Agreement is terminated due to your default, you must pay us the average monthly Royalty Fee and Brand Fund Contribution payable by you for the 12 months prior to your default multiplied by the lesser of 36 months or the number of months remaining in the term of your Franchise Agreement.

**Item 7 ESTIMATED INITIAL INVESTMENT**  
**YOUR ESTIMATED INITIAL INVESTMENT**  
**(FOR A SINGLE RESTAURANT)**

<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment Is To Be Made</b>
Initial Franchise Fee <sup>1</sup>	\$35,000	Lump sum	On signing franchise agreement	Us
Architectural Plan Review <sup>2</sup>	\$0 - \$1,000	As incurred	On request of our PDP	Us or our preferred architect
Architect Fees <sup>2</sup>	\$12,000 - \$15,000	As incurred	Before opening	Our preferred architect or your local architect
Permits & License Fee <sup>3</sup>	\$1,500 - \$5,000	As incurred	Before opening	Contractors or government agencies
Leasehold Improvements <sup>4</sup>	\$220,500 – \$310,000	As incurred	Before opening	Contractors
Equipment <sup>5</sup>	\$120,000 - \$135,000	As incurred	Before opening	Designated Vendor
Furniture <sup>5</sup>	\$7,000 - \$14,000	As incurred	Before opening	Designated Vendor
Millwork	\$35,000 - \$55,000	As incurred	Before opening	Vendors
Smallwares	\$9,000 - \$13,000	As incurred	Before opening	Designated Vendor
Exterior Signage <sup>6</sup>	\$7,000 - \$12,000	As incurred	Before opening	Vendor
Interior Signage and Graphics	\$1,500 – \$4,000	As incurred	Before opening	Vendors
Technology Systems <sup>7</sup>	\$20,300 - \$25,200	As incurred	Before opening	Vendors
Grand Opening Marketing <sup>8</sup>	\$15,000	As incurred	On or before opening	Vendors
Uniforms, Menu Materials, Office Supplies	\$1,634 - \$3,750	As incurred	Before opening	Vendors
Travel & Living Expenses While Training	\$0 - \$5,600	As incurred	During training	Transportation, motels & restaurants
Opening Inventory	\$7,500 - \$12,000	As incurred	Before opening	Designated Vendors
Insurance <sup>9</sup>	\$1,500 - \$3,500	As incurred	Before opening	Insurer
Additional Funds – 3 months <sup>10</sup>	\$15,000 - \$35,000	As arranged	As incurred	Landlord, utilities, suppliers, etc.
<b>TOTAL (excluding tenant allowance)</b>	<b>\$509,434 - \$699,050</b>			
<b>TOTAL PROJECT COST**</b>	<b>\$489,434 - \$644,050**</b>  **based on our experience, you may receive an average of \$37,500 in tenant improvement allowance, which will be paid back to you by your landlord within 90 days of opening. We have incorporated this average into the high range for total project cost. While you may need the Total amount up front, this estimate is representative of total project cost after allowances. Not getting tenant improvement dollars would increase your overall project cost. The range for tenant allowance, if received, is estimated to be between \$20,000 and \$55,000.			

The estimates in the table above for opening a single Zoup! restaurant are calculated for strip center locations and are based on both our experience franchising Restaurants and our preferred architect's and contractor's estimates. Costs for a non-traditional location will likely be lower for leasehold improvements, equipment and furniture, millwork, smallwares, signage, miscellaneous opening costs and opening inventory. All fees and payments are non-refundable, unless otherwise stated or permitted by the payee.

You must use your own non-borrowed funds to cover 20% to 30% of the total projected costs associated with the development and opening of your restaurant, depending on your lender's requirements.

You should review this information, including the footnotes, conduct your own investigation and seek the help of qualified advisers before making any decision about an initial investment in a restaurant.

#### Note 1

Please see Item 5 for information on incentive programs that may offer a discount on the Initial Franchise Fee. The amount stated in the Table is for one outlet operated pursuant to a single Franchise Agreement.

#### Note 2

Our preferred architect, to be engaged by you, will prepare the architectural plans for your restaurant based on the PDP, which is provided at no cost. You must provide us with complete architectural plans for our review and approval. If you do not use our preferred architect and choose to use a local architect, you must pay us or our preferred architect an architectural plan review fee of \$1,000, payable when you request the PDP. We, or third-party vendor that we choose, will review the architectural plans before or at the time of lease signing, after we have accepted your location, to ensure compliance with the PDP. The PDP includes: (i) AutoCad file of our restaurant designs and layouts; (ii) standards and specifications manual; and (iii) design guidelines. The PDP is to be used by your local architect, identified and engaged by you, to prepare site-specific scaled architectural, mechanical, electrical and plumbing drawings necessary for: (i) obtaining building permits from local authorities; (ii) obtaining landlord approval; and (iii) assisting with identifying a qualified general contractor for the construction and/or buildout of your restaurant. Your general contractor must construct your store in conformance with the PDP and the architectural plans. We will require periodic updates from your general contractor to ensure compliance with the PDP. You must have our final approval to open your restaurant.

#### Note 3

Depending on your general contractor or subcontractor, some permit costs and license fees also may be included in the construction estimate for the premises of your restaurant.

#### Note 4

You must engage a qualified licensed general contractor approved by us to construct and/or build out the premises of your restaurant. These estimates are based on our new Zoup! prototypical restaurant design of 1,600 - 2,000 square feet and assume the following factors: that your landlord will contribute between \$20,000 to \$55,000 toward the cost of the buildout of your restaurant; and that the premises contains a level concrete floor suitable for floor covering, demising walls, air conditioning, electricity, gas, sewers, bathroom facilities, water and plumbing that meet code in your geographic area and that are suitable for your restaurant. Costs will vary depending on many factors, including the geographic location of your restaurant, the size of the premises, the availability and cost of labor and materials, the condition of the premises and the amount of work your landlord is willing to perform, at its expense, on the buildout of your restaurant. You will incur higher costs if your landlord does not contribute towards the cost of the buildout of your restaurant.

We estimate that leasehold improvements costs for our new Zoup! prototypical restaurant design are between \$138 and \$155 per square foot for a strip center location. Your cost per square foot may be higher or lower depending on the size of your restaurant and construction costs in your geographic area. Your construction, remodeling and decorating costs in a food court location may be lower due to the reduced size of a food court location.

#### Note 5

You may be able to lease from third parties some or all of the furniture, fixtures, and equipment necessary to operate your restaurant. Leasing furniture, fixtures, and/or equipment may significantly reduce your initial investment by spreading these “start-up” costs over a longer period of time. The estimate set forth in the table assumes that you purchase your furniture, fixtures, and equipment. If you lease these items, you should expect to pay an initial payment of 20% of the price of the furniture, fixtures, and/or equipment (as a “down payment”) and the first and last months’ rent under the lease. We cannot estimate the effective annual interest rate or the estimated interest payments required, as these figures vary over time and depend on the lessor, the amount of equipment, furniture, and/or fixtures being leased, the terms of the lease, and your creditworthiness, among other factors. Our equipment vendors must approve any plans that are completed by other vendors.

#### Note 6

The cost of your exterior sign will vary depending on the size allowed by the landlord and municipality. It will vary based on the number of signs you are allowed/choose to have as well as any work that needs to be done to the outside of the building to prepare for the installation of the sign.

#### Note 7

This estimate includes our computer hardware, VOIP phones, digital menu boards, camera systems, router, alarm system, software requirements, and other technology requirements. The estimate includes the cost of the computer hardware and software as well as installation fees and initial annual fees for hardware and software maintenance and online and smartphone ordering subscriptions. See Item 11 for more information regarding our POS System requirements.

#### Note 8

You must spend at least \$15,000 to conduct a Grand Opening Advertising Program beginning 2 weeks before and immediately on opening your restaurant, and you must provide proof of such expenditures before we approve your restaurant opening. We must approve the Grand Opening Advertising Program. See Item 11 for more information regarding the Grand Opening Advertising Program and other advertising expenses.

#### Note 9

You must obtain insurance policies protecting yourself and us, and your and our respective officers, directors, partners, and personnel, against any demand or claim for personal injury, death, or property damage, or any loss, liability, or expense arising from the operation of your restaurant.

These policies must be written by a responsible carrier or carriers acceptable to us, and must include, at a minimum, the coverage described in Section 9 of the franchise agreement (unless we require additional coverage and higher policy limits). If the coverage required by the lease and the franchise agreement differs, the higher limits will apply.

If you perform any construction, renovation, refurbishment or remodeling of your restaurant, you must also obtain Builder’s All Risks insurance and performance and completion bonds in forms and amounts, and written by a carrier or carriers, reasonably satisfactory to us.

You must provide us with Certificates of Insurance evidencing required insurance coverage. See Item 8 for additional information regarding our insurance requirements.

#### Note 10

The estimate for additional funds includes funds you will need during the first 3 months of operations, and is based on our experience and includes, but not limited to wages for hourly employees, (does not include a salary or draw for you), supplier payments, utilities, bank fees and other miscellaneous costs and purchases. This estimate does not include your royalty fee or advertising fee payments, which are based on your Net Sales. However, this is only an estimate, and it is possible that you will need additional working capital during the first 3 months you operate your restaurant and for a longer time period after that.

### **Item 8 RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

You must operate your restaurant in strict conformance with standards, specifications, recipes, techniques, systems and procedures which we prescribe in various confidential manuals and writings prepared by us for use by you in operating your restaurant (collectively the “Operations Manuals”), and which we may change in our sole discretion. The Operations Manuals cover nearly all aspects of your restaurant’s operations, such as processes, procedures and training techniques.

#### Approved Services, Products and Suppliers

You may only offer approved services and products (“Approved Services and Products”) at your restaurant. Currently, neither we, nor any of our affiliates, are the only approved suppliers of any required services or products. No franchisor officer owns an interest in any supplier. We will provide you with a list of the Approved Services and Products in the Operations Manuals. All Approved Services and Products must meet our standards and specifications. In order to: (i) better assure the quality of the Approved Services and Products; (ii) assure the supply or quality of the Approved Services and Products; and/or (iii) enable us, in our sole discretion to take advantage of marketplace efficiencies, we have the right to require you to purchase certain Approved Services and Products only from us or other suppliers or distributors approved or designated by us. We may also develop certain Proprietary Products which you must purchase from us, our affiliates, or suppliers and distributors approved by us, and offer for sale at your restaurant.

You must use a bookkeeping service vendor specified or approved by us until your Restaurant has been operating for a full 12 calendar months. After your Restaurant has been operating for 12 full calendar months, you may use another bookkeeping service vendor, provided the bookkeeping service meets our then-current standards.

You must at all times maintain sufficient levels of inventory to adequately meet consumer demand and to adequately service the customers at your restaurant. You must purchase all inventory, equipment, fixtures, furnishings, product display units, signs, uniforms, supplies and materials from designated or approved suppliers, or from us. You must offer services and products in the manner we prescribe, provide quality customer service and otherwise operate your restaurant in such a manner which will serve to emulate and enhance the image intended by us for the Zoup! system.

We formulate and modify our standards and specifications for services and products based on the collective experience of our franchisees and our principals. Our standards and specifications are described in the franchise agreement, the Operations Manuals, and other written documents. We have the right, under the franchise agreement, to change the standards and specifications applicable to the operation of your restaurant, including standards and specifications for products, signs, furnishings, supplies, fixtures, inventory and equipment by written notice to you or through changes in the Operations Manuals. You may incur increased costs to comply with these changes at your own expense; however, no change will materially alter your fundamental rights under the franchise agreement. We will notify you of any change

to our standards and specifications by way of written amendments to the Operations Manuals or otherwise in writing.

We may, in our sole discretion, waive or modify any obligation of other Zoup! franchisees under any agreement, and no such waiver or modification will obligate us to grant a similar waiver or modification to you.

If you wish to obtain equipment, foodstuffs, beverages or paper goods (other than Proprietary Food Products or the Proprietary Trademarked Products) from a supplier or distributor that is not on our list of approved suppliers, you may request our approval of the supplier or distributor. We are not obligated to consider requests for approval of additional suppliers or distributors, but if we agree to do so, you must pay us a fee, which will not exceed the reasonable cost of the evaluation and the actual cost of product testing, if any. Currently, this fee is set at a minimum of \$500. In order to be approved, the supplier's or distributor's product must conform in every respect to our standards and specifications, and the supplier or distributor must, in our sole judgment, have a good business reputation, be able and willing to provide sufficient quantities of the product and adequate service to our franchisees, and maintain processing and distribution centers which meet all requisite health and safety standards. The supplier or distributor must also provide us with information that we consider necessary to analyze the supplier or distributor's suitability, and the composition and conformity of the product to our standards and specifications. This evaluation may include a sampling of the product at either the supplier's/distributor's or our place of business, as we determine. Where appropriate, the supplier or distributor must provide us with product liability insurance. All suppliers and distributors must agree to provide reports to us with respect to all purchases by our franchisees. We cannot predict with any certainty how long an evaluation will take, but we will attempt to complete our evaluation within 30 days, and, on the completion of our evaluation, we will inform you in writing of our approval or disapproval of your request. On approval, the supplier or distributor will be added to our approved list, but our approval of a supplier or distributor will relate only to the item or product line evaluated and specifically approved by us. We do not make our criteria for supplier or distributor approval available to our franchisees. We may revoke our approval of particular products or suppliers when we determine that any products or suppliers no longer meet our standards and specifications. On receipt of written notice of such revocation, you must cease purchasing products from that supplier.

We and/or our affiliates may derive revenue from your purchase of certain foodstuffs and other required products, including purchases from designated or approved suppliers. We maintain a list of approved suppliers which currently pay us or our affiliates an administrative fee based on your purchases. The administrative fee paid to us by our currently-approved suppliers for franchisee purchases of foodstuffs and other required products varies between \$0.05 to 0.20 per lb. and/or \$.30 to \$12.00 per case, depending on the type of product purchased. We will supply you with a list of all approved suppliers on request after you sign the franchise agreement and pay the initial franchise fee.

We have established a Prime Supplier Program (the "Prime Supplier Program"). Under this program, which is subject to change, we have designated an exclusive distributor of Proprietary and non-proprietary food, paper and janitorial products. We currently receive an administrative fee based on the above purchases. In order to obtain the pricing we or our affiliates negotiate, you must sign the Sysco Application and Agreement attached as an Exhibit H to this disclosure document. From time to time, we may negotiate other purchase arrangements, including price terms, with designated and approved suppliers on behalf of all franchisees, and you may be required to use these designated and approved suppliers in accordance with our negotiated terms.

We provide no material benefits (such as the grant of additional franchises) based on your use of designated sources; however, failure to use approved items or designated suppliers and contractors may be a default under the Franchise Agreement.

Going forward we expect to receive revenue from franchisee purchases and leases and from these contracts with our suppliers. In the fiscal year ending September 25, 2022, we received \$55,822 in revenue

from franchisee purchases specific to Zoup! (including fee payments from our designated prime supplier and approved suppliers), which comprised 0.2% of our total revenue of \$25,895,514.

The cost of all required purchases and leases may represent between 15% and 30% of your total purchases and leases in connection with your establishment of a Zoup! restaurant. The cost of all required purchases and leases may represent between 40% and 60% of your total purchases and leases in connection with your operation of a Zoup! restaurant.

### Leases and Leasehold Improvements

You must find an acceptable site for your restaurant. You are encouraged to use the services of our preferred broker, or a reputable broker in your search area. Assistance in identifying a reputable broker is provided in our Store Development Manual. You or your broker must present sites to us for our evaluation. We or your broker will assist in the negotiations of the business terms of the rental for any sites that we accept.

Our preferred architect or your local architect will prepare the architectural plans for your restaurant based on the PDP, which we provide to you at no cost. You must provide us with the architectural plans for our review and approval, and you must pay our preferred architect an architectural plan review fee of \$1,000 if you do not use our preferred architect. We, or a third-party vendor that we choose, will review the architectural plans before or at the time of lease signing, after we have accepted your location, to ensure compliance with the PDP. The PDP includes: (i) AutoCad file of our restaurant designs and layouts; (ii) standards and specifications manual; and (iii) design guidelines. The PDP is to be used by your local architect, identified and engaged by you, to prepare site-specific scaled architectural, mechanical, electrical and plumbing drawings necessary for: (i) obtaining building permits from local authorities; (ii) obtaining landlord approval; and (iii) assisting with identifying a qualified general contractor for the construction and/or buildout of your restaurant. You will be responsible for the cost of your local architect, which we estimate will range from \$12,000 - \$15,000 or more, depending on the firm you choose and the geographic region of the country in which you are located. Your general contractor will construct your store in conformance with the PDP and the architectural plans. We will require periodic updates from your general contractor to ensure compliance with the PDP. You must have our final approval to open your restaurant.

Your restaurant must be designed, constructed, equipped, decorated and supplied in compliance with the PDP. You must repair, refinish, repaint, replace, remodel and/or otherwise redo your restaurant, equipment, furnishings, fixtures, decor, and any other tangible part or property of your restaurant at your expense to bring your restaurant into conformance with other franchises of the type being opened at the time of such direction. Typically, we require a full remodel on renewal or transfer, but we may direct changes at any time. Typical full remodeling costs range from \$75,000 to \$150,000 but could be higher depending on the scope of work and condition of your space.

### Advertising

We must approve all advertising before first publication or use. Our Local Store Marketing Manual provides advertising requirements, and non-mandatory advertising guidelines and recommendations.

### Insurance

You must purchase/procure and maintain public liability insurance, property damage insurance and workers' compensation insurance that we require, and any insurance that the law requires, covering the operation and location of your restaurant, from insurance carriers reasonably acceptable to us. Currently, you must maintain liability insurance including general liability coverage in a minimum amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate limit. General liability coverage should include hired and non-owned auto coverage in a minimum limit of \$1,000,000. If you have a delivery vehicle, you must purchase commercial auto insurance for your vehicles. You must carry all insurance required by the lease of your location or by any lender or equipment lessor you select, and such workers' compensation

insurance required by applicable law. Except for your workers’ compensation insurance policy, you must add us to all insurance policies as an additional insured, the cost of which is to be paid by you. No insurance policy may be subject to cancellation except on at least 30 calendar days’ prior written notice to us from the insurance carrier. We have the right to increase or otherwise modify the minimum insurance requirements on 30 days’ prior written notice to you, and you must comply with any requirements within the time specified in that notice.

Computer Hardware and Software Components

Our present computer hardware and software requirements are listed in detail in Item 11.

**Item 9  
FRANCHISEE’S OBLIGATIONS**

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

Obligation	Section of Franchise Agreement	Disclosure Document Item
a. Site selection and acquisition/ lease	1.3, 7.1-7.3 and Site Selection Addendum	7, 11 and 12
b. Pre-opening purchases/ leases	6.2, 6.4, 6.5, 7.1-7.3, 7.8 and 7.9	7 and 8
c. Site development and other pre-opening requirements	7.2, 7.3, 7.5 and Site Selection Addendum	6, 7, 8 and 11
d. Initial and ongoing training	8	11
e. Opening	7.7	11
f. Fees	3, 6.6, 6.8, 6.9, 7.5, 7.7, 7.8.3, 7.11, 7.25, 7.26, 8.2, 11, 12.1-12.4, 14.5	5 and 6
g. Compliance with standards and policies/operations manual	6.1 and 7	8 and 11
h. Trademarks and proprietary information	4 and 5	13 and 14
i. Restrictions on products/ services offered	7.8, 7.9 and 7.10	8, 12 and 16
j. Warranty and customer service requirements	7.10	15
k. Territorial development and sales quotas	1.4	12
l. Ongoing product/ service purchases	7.5, 7.6, 7.8 & 7.9	8 and 11
m. Maintenance, appearance and remodeling requirements	2.2.3, 7.5, 7.11, 7.21, 7.23	6, 8 and 11
n. Insurance	9	6 and 8
o. Advertising	6.5 and 12	6 and 11
p. Indemnification	7.12.3, 7.18, 13.2, 14.2.2, 15.5, 22.8 and Attachment 4	6



<b>Obligation</b>	<b>Section of Franchise Agreement</b>	<b>Disclosure Document Item</b>
q. Owners' participation/management/staffing	7.10, 7.15, 7.16	11 and 15
r. Records and reports	10 and 11	6
s. Inspections and audits	3.3, 7.11, 10, 11, 15.2.9, 15.2.23, 16.1.11,	6 and 11
t. Transfer	14	17
u. Renewal	2.2 and 22.5	17
v. Post-term obligations	16 and 17.2	17
w. Non-competition covenants	14.4.4 and 17	17
x. Dispute resolution	18	17
y. Guaranty	20 and Attachment 2	15

**Item 10  
FINANCING**

We do not offer direct or indirect financing, and we do not guarantee your note, lease or any of your obligations.

**Item 11  
FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING**

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

**Single Unit Franchise Agreement**

**Pre-Opening Obligations**

Before you open your restaurant, we will do the following:

1. We will provide you an electronic copy of the Operations Manuals, which we may amend periodically. (Franchise Agreement, Section 6.1) The Tables of Contents to the Operations Manuals are included in Exhibit D to this disclosure document.
2. We may conduct a Franchise Orientation Seminar, which may be, in our sole discretion, either at our offices or via webinar. (Franchise Agreement, Section 6.3)
3. We will provide initial training (except for the sanitation certification course, which you will have completed prior to attending Zoup! training. We will train you and up to 3 of your management personnel. While our training program is offered free of charge, you must pay all travel, lodging, meal and other expenses for yourself and your management personnel. If you are a partnership, corporation or limited liability company, at least 1 of the trainees must be your general partner, principal shareholder or manager, as appropriate. (Franchise Agreement, Section 7.6)

The required training lasts up to 4 weeks. Two of those weeks will be spent in the Southfield, Michigan, area for classroom and hands-on training, followed by up to two weeks of training in your own restaurant, as follows:

## TRAINING PROGRAM

Subject	Hours of Classroom/Virtual Training	Hours of On-the-Job Training	Location
Orientation/Welcome	1	2	Southfield, MI
Operations	1	25	Southfield, MI
Product/Recipe	1	6	Southfield, MI
Guest Service	1	25	Southfield, MI
POS/IT Training	1	8	Southfield, MI
Marketing	1	2	Southfield, MI
Supply Chain	1	2	Southfield, MI
Management	1	8	Southfield, MI
Financial	1	2	Southfield, MI
<b>Total</b>	<b>9</b>	<b>80</b>	

The training program is conducted by and under the supervision of Jason Rennie. Jason has been our Vice President of Operations since June 2022. Previously, Jason had been Little Caesars Enterprises Regional Director of Franchise Services from October 2017 to June 2022. Prior to joining the Company, Mr. Rennie served as Director of Operations for Express Stop (a franchisee of Little Caesars, Dunkin Donuts and Subway) located in Brighton, Michigan from August 2012 through October 2017. Mr. Rennie served as a Franchise Business Consultant for Little Caesars Enterprises from October 2006 through October 2012.

You or a designated operations partner and your manager must successfully complete the training program to our satisfaction. A minimum of two (2) people must successfully complete the training program at least fifteen (15) days prior to opening.

The classroom portion of the training program is conducted virtually via webinar, and the on-the-job training is conducted at our company-owned Zoup! restaurant currently located in the Southfield, Michigan, area. Based on availability, we also may designate alternative training restaurants that may be closer to your location. The Application of Procedures portion of your training occurs at your restaurant with you and your staff prior to opening. In addition, there is a sanitation certification course as prepared by the National Restaurant Association (“NRA”) that you will be required to take online and then we will proctor the exam. You and your manager must successfully complete this sanitation certification course as prescribed by the instructor.

The number of hours you spend on each subject in your training program may be changed in our sole discretion, and will vary, depending on your previous restaurant experience. In addition, 1 of our representatives will assist you with the required mock opening of your restaurant immediately before the opening of your restaurant to the public. (See above in this Item 11; Section 6.6 of the franchise agreement).

You must train your other personnel. We will provide you with guidelines, recommendations and materials, some of which will be on our private internet site, related to training your management or non-management personnel. You may use these training resources, or may choose to use alternate training resources, so long as your management and non-management personnel are trained to operate your restaurant in a System-compliant, legal and safe manner. We will provide you with updated guidelines, recommendations and materials as they are developed. All training materials that we provide will at all times remain our or our affiliates’ property, and you agree not to challenge our or our affiliates’ title or rights in or to the training materials. You may not make any unauthorized disclosure, duplication or other use of any portion of the training materials.

We may also offer additional training or refresher courses or seminars to be conducted at our corporate headquarters or at another place that we designate, and you and/or your manager may be required to attend these courses, at your expense. The fee for participation is currently \$0, but we reserve the right to charge a reasonable fee. You will incur travel and lodging expenses. However, attendance will not be required at more than 4 such programs in any calendar year, which will not collectively exceed 8 business days in duration during any calendar year. (Franchise Agreement, Section 8.3)

3. Each year, we may hold an Annual Convention, which you must attend. There may be an attendance fee, and you will pay all costs of attendance, including travel, lodging, meals and other personal expenses. If you do not attend the Annual Convention, you must us pay a \$1000 penalty fee by electronic funds transfer. (Franchise Agreement, Section 6.9)

4. Our preferred architect or your local architect will prepare the architectural plans for your restaurant based on the PDP, which we provide to you at no cost, specifying the design and architectural requirements for the construction and/or buildout of your restaurant. You must provide us with the architectural plans for our review and approval, and unless you use our preferred architect, you must pay us or our preferred architect an architectural plan review fee of \$1,000 when you request the PDP. We, or a third-party vendor that we choose, will review the architectural plans before or at the time of lease signing, after we have accepted your location, to ensure compliance with the PDP. (Franchise Agreement, Section 6.4).

5. We will provide written specifications and designate sources of supply from which you agree to purchase inventory, goods and supplies necessary for the startup and ongoing operations of your restaurant. We do not provide, deliver, or install these items for you. (Franchise Agreement, Section 6.2)

6. You must conduct an opening advertising program for your restaurant before and immediately on opening your restaurant (“Grand Opening Advertising Program”). You must spend at least \$15,000 for the Grand Opening Advertising Program and provide proof of such expenditures before we approve your restaurant to open. We must approve your Grand Opening Advertising Program, and you must use the media and advertising formats we designate. If you fail to conduct the Grand Opening Advertising Program we require, we may either withhold approval for you to open your restaurant or deduct any amount not spent by you during the Grand Opening Advertising Program up to \$15,000 via EFT and contribute this amount to the Brand Development Fund. We also may, in our sole discretion, elect to terminate your franchise. (Franchise Agreement, Section 6.5)

7. One to 2 days before your restaurant first begins operations, we will assist you in conducting a required mock opening of your restaurant. You must cooperate fully with us in conducting the mock opening, as described in the Operations Manuals or otherwise in writing by us. We will send 1 or more of our representatives to assist with your restaurant’s operation during the initial opening period. We will provide up to 5 days of on-site assistance if your restaurant is your first Zoup! restaurant, up to 3 days of on-site assistance if your restaurant is your second Zoup! restaurant and up to 1 day of on-site assistance if your restaurant is your third or subsequent Zoup! restaurant. During this period, our representative will also assist you in establishing and standardizing procedures and techniques essential to the operation of a Zoup! restaurant. If you request additional assistance from us during the opening period, and if we, in our sole discretion, consider it necessary, feasible and appropriate to comply with the request, you must reimburse us for our expenses in providing the additional assistance at our then-current service fee. (Franchise Agreement, Section 6.6)

### **Site Selection and Opening**

1. You will operate your restaurant at the accepted location that you and we agree on. If we have not accepted a location for your restaurant as of the date you sign the franchise agreement, you will sign the Site Selection Addendum attached as Attachment 1 to the franchise agreement, the terms of which will govern your and our site selection obligations. (Franchise Agreement, Section 7.2) Under the Site Selection Addendum, you will be given an exclusive “Site Search Area” in which you must locate a site for your

restaurant. You may submit a site for our approval outside of the Site Search Area, if it is not within the protected territory or site search area of another franchisee. You must locate a site which we accept within 6 months after the signing of your franchise agreement. Failure to find a site for your restaurant within 6 months after the signing the franchise agreement may result in the termination of the franchise. If you have not signed a lease or purchased a site within 90 days after receiving our acceptance, we may withdraw our acceptance.

If we determine that an on-site evaluation would be advisable, we will conduct a visit as part of our evaluation of your request for site acceptance. We will conduct 1 visit at our expense. After the first visit, you must reimburse us for our reasonable expenses, including the costs of travel, lodging and food. The expenses associated with site evaluation are not refundable and will vary depending on factors such as the distance of the proposed site from our headquarters, the reasonable accommodations selected by us and the length of stay required for an evaluation. The site selection expenses will not be collected or imposed on behalf of, nor paid to any 3<sup>rd</sup> party, in whole or in part, except to the extent that the expenses are paid to unaffiliated airlines, hotels and restaurants. In almost all cases, we consider on-site evaluations necessary.

You must find an acceptable site for your restaurant. You are encouraged to use the services of our preferred broker, or a reputable broker in your search area. Assistance in identifying a reputable broker is provided in our Store Development Manual. You or your broker must present sites to us for our evaluation. We or your broker may assist you in the negotiations of the business terms of the rental for any sites that we accept.

2. Your architect will prepare architectural plans, based on the PDP, necessary for: (i) obtaining building permits from local authorities; (ii) obtaining landlord approval; and (iii) construction and/or buildout of your restaurant. We provide the PDP to you at no cost. You must provide us with the architectural plans for our review and approval, and unless you use our preferred architect, you must pay us or our preferred architect an architectural plan review fee of \$1,000 when you request the PDP. We, or a third-party vendor that we choose, will review the architectural plans before or at the time of lease signing, after we have accepted your location, to ensure compliance with the PDP.

3. Once you have signed a lease for the accepted location and have obtained possession and all necessary permits, licenses and variances required for the construction and/or buildout of your restaurant, you must choose a qualified licensed contractor to construct and/or buildout your restaurant with the assistance of your local architect identified and engaged by you. During the construction and/or buildout of your restaurant, we will require periodic updates from you and/or your general contractor to include pictures showing the progress of the construction to ensure compliance with our specification requirements according to the PDP and the architectural plans. You must have our final approval to open your restaurant.

4. Under the terms of the franchise agreement, you must begin operations at your restaurant within 12 months after signing the franchise agreement. You may not open your restaurant unless you receive our prior written approval.

5. The typical length of time between the signing of the franchise agreement and the opening of a restaurant is 12 months. This period can be longer or shorter, depending on the time of year, how quickly your site is identified and secured, availability of financing, approval of building permits, local construction delays, timing of your and/or your manager's completion of initial training and other factors. (Franchise Agreement, Section 7.7)

**Obligations After Opening**

Post-Opening Assistance

Required

We will provide you continuing consultation and advice as we consider necessary and appropriate regarding the management and operation of your restaurant. We will provide that assistance, in our sole

discretion, by telephone, facsimile, intranet communication and on-site visits. If you require and request additional on-site assistance from us, subject to the availability of our personnel, we will provide you with assistance at the cost of \$500 per person per day, plus the reasonable travel, lodging, meal and other expenses of our personnel. (Franchise Agreement, Section 6.7)

### Discretionary

Additionally, we may, in our sole discretion, but are not obligated to do the following:

1. Hold an Annual Convention at a location we select. We will determine the topics and agenda for the Annual Convention to serve the purpose among other things, of updating franchisees on new developments affecting franchisees, exchanging information between franchisees and our personnel regarding Zoup! restaurant operations and programs, and recognizing franchisees for their achievements. You must attend the Annual Convention. You must pay all expenses, including your and your attendees' transportation to and from the Annual Convention, and your and their lodging, meals and salaries during the Annual Convention. We or our affiliate, ZBF, may use expenditures from the Brand Development Fund for purposes related to the Annual Convention, including costs related to production, programs, and materials. If you do not attend the Annual Convention, you must pay us a \$1,000 penalty fee by electronic funds transfer. (Franchise Agreement, Section 6.9)

### Advertising and Marketing

#### **Brand Development Fund**

We have established a Brand Development Fund ("BDF") into which you are required contribute 3.0% of your Net Sales. If 50% or more of Zoup! locations represented by voting Zoup! operators elect to increase the required BDF contribution to a level higher than 3.0%, then you must contribute to the BDF at this new percentage level. Company-owned and operated Zoup! restaurants will contribute to the BDF on the same basis as provided for in our franchise disclosure documents (FDD) in the years that we establish these Zoup! restaurants. The purpose of the BDF is to increase consumer demand for the Zoup! brand through the research, testing, creation, development, production and execution of our menu and marketing programs and materials across all elements of the marketing mix, including but not limited to advertising, promotion, public relations, merchandising and media. These media include traditional media and non-traditional media, including but not limited to digital media, social media, paid search, search engine optimization, push notifications, targeted emails, and website marketing, which may change over time. We have sole discretion over all aspects of the research, testing, creation, development, production and execution of marketing programs and materials financed by the BDF, including the planning, purchasing and placement of media.

The BDF may be used for any and all costs to direct, oversee, maintain, administer, prepare and produce marketing programs and materials, including but not limited to the cost of planning, purchasing and placement of media; the cost of retained relationships with advertising, public relations and product development agencies; the cost of developing and maintaining internet websites, smartphone apps and social media accounts and pages; and the cost of personnel in Zoup! marketing and other functional departments that assist in any way with the aforementioned research, testing, creation, development, production and execution of menu and marketing programs and materials. The BDF will not spend any money on any marketing, advertising or promotion that is principally a solicitation for the sale of new franchises, but we may include a notation in any relevant brand communication indicating that franchises are available.

All BDF contributions are deposited into an account held by our affiliate, Zoup! Brand Fund (ZBF), under an agency agreement with us. Although the BDF is intended to increase demand for the Zoup! brand in ways that benefit all locations where consumers can access it, we cannot assure you that any particular Zoup! location will benefit directly or on a pro-rata basis from the marketing programs and materials

financed by the BDF, including advertising, promotion, public relations, merchandising and media. Neither we nor ZBF are required to spend any amount on advertising, promotion, public relations, merchandising or media in your trade area. Neither we nor ZBF are obligated to ensure that expenditures from the BDF are proportionate or equivalent to your contributions to the BDF.

There is no requirement that the BDF be audited. Upon your written request after you sign the franchise agreement and pay the initial franchise fee, we will provide an annual summary by category of the BDF, unaudited and prepared by us. If all contributions to the BDF are not spent in the fiscal year in which they accrue, any remaining amounts will be carried over to the next fiscal year. In the fiscal year ended September 25, 2022, BDF expenditures were divided as follows: Advertising Media & Production 50%; Marketing Overhead 46%; Other Fixed & Variable Expenses 4%.

**Systemwide Marketing Promotions**

Each year, we plan and execute a calendar of systemwide marketing promotions, including but not limited to new product and menu introductions, seasonal and holiday campaigns, and other-than-price promotions, such as sweepstakes, contests and special events, which we may support in traditional and/or non-traditional media. You must participate in these systemwide marketing promotions as directed by us in writing prior to each promotion, which may require you for a designated period of time to display POP merchandising or other signage in your restaurant, promote a new menu or limited-time only product, offer a promotional or discounted price for a limited time, and/or honor coupons or offers for discounted or free products.

**Loyalty Marketing & Gift Card Programs**

In addition to these systemwide marketing programs, we also maintain on an ongoing basis a Zoup! loyalty marketing program and a Zoup! gift card program, each of which we also promote at specific times throughout the year. You must participate in our loyalty marketing program, by honoring at all times the terms of loyalty program membership for each member of the program as described on our loyalty marketing mobile app and on our website, by honoring promotional offers that we make to loyalty members, and by redeeming discounted or free food awards earned by our loyalty members. You also must participate in our gift card program by selling and honoring gift cards in your restaurant at all times; including those distributed digitally via our online channels. You must also promote the loyalty marketing and gift card programs as directed by us in writing prior to each loyalty marketing or gift card promotion, which may require you for a designated period of time to display POP merchandising or other signage in your restaurant, offer a promotional or discounted price, and/or honor coupons or offers for discounted or free products that promote our loyalty marketing or gift card programs.

**Digital Marketing & Social Media**

To increase consumer demand for the Zoup! brand, we communicate with consumers in a variety of traditional and non-traditional media, including digital marketing and social media, such as Facebook, Twitter and Instagram, which may change over time. To ensure that our brand communication in any online, digital or social medium is consistent with our brand strategy, and to maximize the efficiency and effectiveness of these media, there will be only one representation of the Zoup! brand in all online, digital and social media. We maintain and administer a Zoup! website, which we control at our sole discretion. You will be prohibited from establishing a Zoup! website of any kind for your restaurant or any website that references the Zoup! brand in any way, verbally or visually. However, you will be able to customize information within your specific Yext-based local restaurant page. We also maintain and administer one master Zoup! account in each social medium, which we control at our sole discretion. You will be able to establish a Zoup! social media account or page of any kind for your restaurant or any social media account or page that references the Zoup! brand in ways that are consistent with our Social Media Policy. Consistent with the grand opening marketing plan for your Zoup! restaurant and concurrent with its opening, we will

establish pages for your Zoup! restaurant in the social media that we choose, which we will link to a master Zoup! account and train you on how to use it in ways that are consistent with our Social Media Policy.

### **Local Store Marketing (LSM)**

In addition to the BDF contributions described in the “Brand Development Fund” section of this Item 11, you must spend 2% of your Net Sales on local store marketing (the “LSM Requirement”) in the manner we prescribe in the Operations Manuals or otherwise in writing, which may include requirements for placing a certain number of and/or type(s) of advertisements or promotions in traditional media and/or non-traditional media, regardless of the amount(s) spent by our other franchisees on local advertising. You may spend any additional sums you wish on local store marketing. You acknowledge and agree that your LSM Requirement must be expended regardless of the amount(s) spent by other Zoup! franchisees on local store marketing. You must use only marketing programs and materials that have been previously approved by us. We may, at any time, require documentation of your actual approved local store marketing expenditures. After our review of the documentation, if we determine, in our sole discretion, that you have not complied with our standards for the LSM Requirement, we may require you to remit your LSM Requirement payments directly to us, which we will expend on local store marketing in your Territory as we determine in our sole discretion. We will provide documentation to you detailing these expenditures. We may, in our sole discretion, direct certain expenditures of your LSM Requirement in the form and manner we prescribe. Periodically, some or all of our franchisees will be directed to spend local store marketing monies in the form and in the manner we prescribe.

### **Local Marketing Approvals**

You may use your own local marketing programs and materials, if you have submitted them to us for approval at least 15 days before their use. Within 10 business days after our receipt of the marketing programs and materials, we will notify you in writing of our approval or disapproval of the marketing programs and materials; provided, however, that our failure to approve or disapprove the marketing programs and materials within 10 business days after receipt will be considered disapproval. You must refrain from any practice in marketing, including but not limited to advertising, promotion, public relations, merchandising or media, which is unethical, or may be injurious to the Zoup! brand, the goodwill associated with the marks or other locations where consumers can access the Zoup! brand.

### **Regional Marketing Cooperatives**

There are currently no regional marketing cooperatives (“Cooperatives”) in existence for the Zoup! system. We have the right, however, to determine the composition of all geographical territories for purposes of establishing Cooperatives, determining whether a Cooperative is applicable to your restaurant, and requiring you to participate. We have right to determine how the Cooperative will be organized and governed, and each Cooperative will begin operating on a date approved in advance by us. We may require that a Cooperative Advisory Council be formed, changed, dissolved or merged. Once established, each Cooperative will be self-administered by its members, who will elect their own officers in accordance with the bylaws and other governing documents, which may be changed only with our approval. If a Cooperative has been established that is applicable to your restaurant at the time you begin operating under the franchise agreement, you must immediately become a member of that Cooperative. If a Cooperative applicable to your restaurant is established at any later time during the term of the franchise, you must become a member of that Cooperative no later than 30 days after the date on which the Cooperative begins operation. If your restaurant is within the territory of more than 1 Cooperative, you must be a member of only 1 Cooperative.

Each Cooperative will be organized for the exclusive purpose of administering local or regional marketing programs and materials, and developing, subject to our approval, standardized marketing programs and materials for use by the members in local or regional media, including traditional and/or non-traditional

media. No marketing programs and materials may be used by a Cooperative or furnished to its members without our prior approval. All local or regional marketing programs and materials must be submitted to us in accordance with the procedure outlined in the “Local Marketing Programs & Materials Approvals” section of this Item 11. Each Cooperative may require its members to make contributions to the Cooperative in amounts that are determined by a majority vote of the members of the Cooperative. These contributions may exceed the amount of the LSM Requirement, but you will receive credit for Cooperative contributions against the LSM Requirement. Any company owned and operated restaurant in a geographical territory covered by a Cooperative will make contributions to the Cooperative at the same rate and at the same time as franchisees in the Cooperative make contributions. Each member franchisee must submit to the Cooperative, no later than the Wednesday following the first Monday of each month, for the preceding month, its contribution as provided in the franchise agreement for BDF contributions, together with any other statements or reports that we may require or that may be required by the Cooperative with our approval. We may grant to any franchised or company owned and operated restaurant, in our sole discretion, an exemption for any length of time from the requirement of membership in a Cooperative, on written request of the franchisee or company owned and operated restaurant stating reasons supporting an exemption. Our decision concerning any request for exemption will be final and at our sole discretion. Because of this, other franchisees or company-owned and operated restaurants may make lower Cooperative contributions than you, or no Cooperative contribution at all.

**Franchise Advisory Council**

We do not have an advertising council composed of franchisees that advises us on advertising policies. The Franchise Agreement gives us the right, in our discretion, to create a franchisee advisory council to communicate ideas, including proposed advertising policies. If created, we will determine in advance how franchisees are selected to the council, which may include factors such as a franchisee’s level of success, superior performance, and outlet profitability. We reserve the right to change or dissolve the council at any time.

**Computer System**

Under the franchise agreement, you must obtain and use the required point-of-sale system (“POS System”) and other technologies that we designate in the Operations Manuals or otherwise in writing. You must use the POS System to record all sales transactions of your restaurant (including product mix and sales per hour), to generate department and cumulative sales reports and daily sales reports, and to provide on-line, internet protocol-based credit card, gift card and loyalty card authorization. You must participate in our approved gift card program, loyalty card program and any other future similar programs we institute in our sole discretion.

All data you record on the POS System becomes immediately, and in real time, our property. You agree that we can, at any time, retrieve this information and use it in any way that we consider appropriate without compensating you. We will have independent access to the information you record, and there are no contractual limitations on our right of access. You must allow access to the POS provider to install the necessary computer hardware and software to provide us with full and direct electronic access to all of your data, software systems, and related information. The cost of the POS System, including hardware and software is \$37,000 - \$42,000. The cost of sending us required data is your obligation. To ensure functionality of the POS System, you may not install any software on the POS System without our prior written consent. If any software is installed on the POS System that interferes with its functionality, we may remove it without notice to you.



All maintenance and support (not including replacement parts) and upgrades to existing software are included in the weekly Technology License and Development Fee that is payable to us. The weekly Technology License and Development Fee is \$146.42, subject to increase.

You must use our approved credit card processing company for both in store and online. Please see Exhibit J of this Disclosure Document for the form of the contract.

#### Internet Service and Email Service

You must maintain broadband internet access directly to the back server and the POS station(s). If broadband internet access is unavailable to you, you must provide for alternative internet access acceptable to us. In addition, you must maintain an email address for correspondence with us, and must notify us immediately of any change to your e-mail address.

Minimum Wi-Fi requirements are 100 Mbps down 15 Mbps up (bare minimum based on availability could be 50/10 Mbps). 4G failover/backup as a requirement, which can be through a firewall provider since the POS is all cloud based.

We may create, in our sole discretion, a proprietary email service designed to better service communications with our franchisees. At that time, you must use the email service in the manner we prescribe in the Operations Manuals or otherwise in writing at your sole expense.

#### Independent Site Development and Domain URL Names

Other than the website services that we may provide to you in connection with our website, you may not maintain a website in connection with your restaurant. You may not establish a domain name or e-mail address incorporating any variation of the “Zoup!” name or the Proprietary Marks, without our prior written approval. You may not advertise on the internet without our prior written approval. We have created links on our website to various social media sites. You may not use any social media platforms without our prior written approval.

#### System-Wide Computer Network, Intranet or Extranet Participation

You must participate in any Zoup! system-wide computer network, intranet system or extranet system that we implement. You must install the necessary hardware and/or software to use any system that we implement. You must upgrade or update your network connection at our request, no more frequently than annually, without any limitation to cost. On your execution of the franchise agreement, we will provide you with access to our private internet site. You will use the private internet site to, among other things: (i) view and print portions of the Operations Manuals; (ii) download approved local advertising materials; (iii) communicate with us; and (iv) receive training materials. You agree to use the facilities of any system-wide computer network, intranet system or extranet system in strict compliance with the standards, protocols, and restrictions that we include in the Operations Manuals, including those related to the encryption of confidential information and prohibitions against the transmission of libelous, derogatory or defamatory statements. You may not share your password to the private internet site, nor may you share any of the content, with anyone else.

#### Confidential Operations Manuals

As of the Issuance Date of this Disclosure Document, our Operations Manual had a total of 360 pages. We also have additional supplemental manuals covering a variety of subjects. See Exhibit D for the Table of Contents.

The Operations Manuals contain both mandatory standards, specifications, recipes, techniques, systems and procedures, and non-mandatory guidelines and recommendations.

## **Item 12 TERRITORY**

### Franchise Agreement

You will operate your restaurant from a specific location which we accept (“accepted location”) which will be identified on the Data Sheet of the franchise agreement. Within 30 days after your execution of a lease for the accepted location, we will provide you with a protected territory (“Territory”) for the accepted location.

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

The scope and size of the Territory will be in our sole discretion, based on the following factors: general location, traffic patterns, parking availability, size of site in relation to building type, access, visibility, area demographics, population density, surrounding area commercial activity, and market demands. Because these factors may vary significantly from location to location, at a minimum, the Territory may be limited to the accepted location.

If you have secured a site for your restaurant at the time you sign the franchise agreement, you will establish your restaurant at the accepted location. If you have not yet secured a site for your restaurant at the time you sign the franchise agreement, you will enter into our Site Selection Addendum, attached as Attachment 1 to the franchise agreement, which will govern the site selection process. Under the Site Selection Addendum, we will issue you an exclusive “Site Search Area” in which you will have 6 months to locate a site. The Site Search Area is not the same area as, and will be larger than, the Territory.

We grant you a franchise for a specific accepted site within the territory. The site may not be changed without our written approval and compliance with our relocation procedures, and you may not operate out of any site other than the accepted site within the territory without our written approval. All sales must be made from the accepted site. You may provide services and products to any customer who contacts you, but you may not solicit business outside your territory through the use of a toll-free number, direct mail, a website, electronic communications or other advertising methods without our prior written approval.

Except as otherwise provided, for as long as you comply with the terms and conditions of the franchise agreement, we will not solicit orders or establish and operate, nor license any party other than you to establish and operate, any Zoup! restaurant under the System and the Proprietary Marks within the Territory. Your territorial protection is not dependent on achievement of a certain sales volume, market penetration, or any other contingency, provided you meet the requirements set forth in the franchise agreement.

You may not relocate your Zoup! restaurant without our prior written approval. The conditions under which we may allow you to relocate include the following: condition of the premises, demographics of the surrounding area, proximity to other Zoup! restaurants, lease requirements, traffic patterns, vehicular and pedestrian access, proximity to major roads, available parking, and overall suitability. If you wish to relocate, you must request our approval at least 60 days in advance. If we consent to a relocation, you must identify a new location for your Zoup! restaurant that meets our approval, in accordance with our then-current site selection procedures, within 90 days and complete your leasehold improvements in conformance with our then-current specifications within 6 months. If you do not identify a site, or complete your buildout, within these time periods, we may terminate the Franchise Agreement. While you are closed for relocation, you must continue to pay us a minimum Royalty and Brand Development Fund contribution equal to the average paid during the four (4) calendar quarters immediately preceding the date you cease operations at your original location.

### Reservation of Rights under the Franchise Agreement

We and our affiliates have the right, in our sole discretion, to: (i) own and operate restaurants at any location(s) outside the Territory under the same or different marks, or to license others the right to own and operate restaurants at any location(s) outside the Territory under the same or different marks; (ii) provide services and products to any customer who contacts us; (iii) use the Proprietary Marks and the System in connection with services and products, promotional and marketing efforts or related items, or in alternative channels of distribution, including offering gift cards and loyalty cards on our website (which you must honor) and placing for sales any product, service, salad bar, salad station and/or “store-within-a-store” in supermarkets, other retail outlets, and non-traditional and captive locations, including the use of our branded food truck, without regard to location; (iii) own and operate restaurants or businesses, or market similar services and products, at any location(s) inside the Territory under different marks, or to license others the right to own and operate restaurants or businesses, or market similar services and products at any location(s) inside the Territory under different marks; (iv) offer and sell, or license to others the right to offer and sell, Zoup! menu items at food service establishments that are located within your Territory and that primarily operate under different marks; and (v) use and license to engage in any other activities not expressly prohibited in this Agreement. If your restaurant is located in a captive location, including, but not limited to an enclosed shopping center, amusement or theme park, sports stadium or arena, airport or train station, we will have the right, among others, during the term of the franchise to use, and to license others to use, the System and Proprietary Marks for the operation and licensing of other restaurants within the Territory. The reserved rights mean that you may face competition from other resellers, franchisees or other channels of distribution we control. We are not required to pay any compensation to you for any authorized activities in your Development Territory.

### **Item 13 TRADEMARKS**

You will have the limited right to use the Proprietary Marks we designate to operate your restaurant. The principal Mark you will use is the “Zoup!®” (and Design) Mark appearing on the cover page of this disclosure document. We have registered the following marks on the Principal Register of the United States Patent and Trademark Office (“USPTO”), and have filed all required affidavits and renewal registrations:

<b>Mark</b>	<b>Registration Number</b>	<b>Registration Date</b>
ZOUP! (word mark)	2,797,972	12/23/03

There are currently no effective determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court; no pending interference, opposition or cancellation proceedings; nor any pending material litigation involving the Proprietary Marks. Furthermore, there are no agreements that limit our right to use or license the use of the Proprietary Marks.

You must promptly notify us of any suspected unauthorized use of the Proprietary Marks, any challenge to the validity of the Proprietary Marks, or any challenge to our ownership of, our right to use and to license others to use, or your right to use, the Proprietary Marks. We have the sole right to direct and control any administrative proceeding or litigation involving the Proprietary Marks, including the right to settle the proceedings or litigation. We have the exclusive right, but not the obligation, to affirmatively prosecute actions against third parties for infringement or threatened infringement of the Proprietary Marks.

We will defend you against any third-party claim, suit, or demand arising out of your proper use of the Proprietary Marks. If we, in our sole discretion, determine that you have used the Proprietary Marks in accordance with the franchise agreement, we will pay the cost of defending the action, including the cost of any judgment or settlement. If we, in our sole discretion, determine that you have not used the Proprietary Marks in accordance with the franchise agreement, you will be required to pay for the defense or to

reimburse us for costs we incurred in providing the defense, including the cost of any judgment or settlement. In the event of any litigation relating to your use of the Proprietary Marks, you must sign all documents and assist us, as we consider necessary, to carry out the defense or prosecution, including becoming a nominal party to any legal action. Except to the extent that the litigation is the result of your use of the Proprietary Marks in a manner inconsistent with the terms of any agreement you sign with us, we will reimburse you for your out-of-pocket costs in performing such acts.

We are not aware of any superior prior rights or infringing uses that could materially affect your use of the Proprietary Marks in any state; however, a federal trademark registration does not necessarily protect the use of the concerned mark against a prior user in a given relevant market area. Therefore, before entering into the franchise agreement, you should make every effort to ascertain that there are no existing uses of the Proprietary Marks or confusingly similar marks in the market area where you wish to do business. You should immediately notify us of any confusingly similar marks you discover.

We are the lawful and sole owner of the domain names [www.zoup.com](http://www.zoup.com) and [www.zoupfranchise.com](http://www.zoupfranchise.com). You cannot register any of the Proprietary Marks now or in the future owned by us or any abbreviation, acronym or variation of the Proprietary Marks, or any other name that could be deemed confusingly similar, as internet domain names. We retain the sole right to advertise the Zoup! system on the internet and to create, operate, maintain and modify, or discontinue using a website using the Proprietary Marks. You may access our website. Except as we may authorize in writing in advance, however, you cannot: (i) link or frame our website; (ii) conduct any business or offer to sell or advertise any services or products on the worldwide web; or (iii) create or register any internet domain name in connection with your franchise.

You may use only the Proprietary Marks which we designate and may use them only in the manner we authorize and permit. You may use the Proprietary Marks only for the operation of your restaurant only at the accepted location or in advertising for your restaurant. You must use all of the Proprietary Marks without prefix or suffix and in conjunction with the symbols “SM,” “TM,” “S” or “R,” as applicable. You may not use the Proprietary Marks in connection with the offer or sale of any services or products which we have not authorized for use in connection with the System. You may not use the Proprietary Marks as part of your corporate or other legal name. Your corporate name and all fictitious names under which you propose to do business must be approved by us in writing before use. You must use your corporation or limited liability company Zoup! name either alone or followed by the initials “D/B/A” and with a geographic description as assigned by us and the word “Zoup!.” You must promptly register at the office of the county in which your restaurant is located, or any other public office as provided for by the laws of the state in which your restaurant is located, as doing business under such assumed business name.

All of your advertising must prominently display the Proprietary Marks and must comply with our standards for using the Proprietary Marks. All advertising is subject to our prior written approval, which we will not unreasonably withhold. We reserve the right to approve all signs, stationery, business cards, forms, and other materials and supplies bearing the Proprietary Marks. You may use the Proprietary Marks, including trade dress, color combinations, designs, symbols, and slogans, only in the manner and to the extent specifically permitted by the franchise agreement or by our prior written consent. You must submit to us and we must approve all advertising, publicity, signs, decorations, furnishings, equipment or other materials employing the Proprietary Marks, or related marks, before 1<sup>st</sup> publication or use. We will not unreasonably withhold our approval. You must identify yourself as the owner of your restaurant (in the manner we prescribe) in conjunction with any use of the Proprietary Marks including, without limitation, on invoices, order forms, receipts, and business stationery, as well as at such conspicuous locations as we may designate in writing at your restaurant premises.

We reserve the right to substitute different proprietary marks for use in identifying the System and the businesses operating under it. You must discontinue using all Proprietary Marks which we have notified you, in writing, have been modified or discontinued within 10 days after receiving written notice, and must promptly begin using such additional, modified or substituted Proprietary Marks at your expense.

**Item 14**  
**PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

We do not own any registered patents or copyrights which are material to the franchise; however, we claim common law copyright and trade secret protection for several aspects of the System, including the Operations Manuals, advertising, and business materials.

There are no current determinations, proceedings or litigation involving any of our copyrighted materials. Should you become aware that any unauthorized 3<sup>rd</sup> party is using any of our copyrighted materials, we request that you notify us of such unauthorized use. We may revise any of our copyrighted materials in our discretion and may require that you cease using any outdated copyrighted materials. You will be responsible for printing any revised or new advertising, marketing or other business materials.

During the term of the franchise, you will receive information which we consider trade secret and confidential information. You may not, during the term of the franchise or after their termination, communicate, divulge, or use for the benefit of any other person, partnership, association, corporation, or limited liability company, any of our trade secrets, pricing-marketing mixes, copyrighted materials, methods and other techniques and know-how concerning the operation of your restaurant (“Confidential Information”). You acknowledge and agree that the Confidential Information includes customer names and addresses, as well as vendor and approved supplier information, recommended prices, and pricing-marketing mixes. You may divulge the Confidential Information only to your personnel who must have access to it in order to perform their operational obligations. You must require your manager and any personnel having access to any of the Confidential Information to sign an agreement stating that they will maintain the confidentiality of information they receive in connection with their employment or engagement and restricting their right to work for a competitor while they are employed or engaged by you. That agreement, which will be in a form that we prescribe, will identify us as a third-party beneficiary to the agreement and will give us independent enforcement rights.

The franchise agreement provides that if you, your personnel or your principals develop any new concept, process or improvement in the operation or promotion of your restaurant, you must promptly notify us and provide us with all necessary related information, without compensation. Any such concept, process or improvement will become our sole property, and we will be the sole owner of all related patents, patent applications, trademarks, copyrights and other intellectual property rights. You and your principals must assign to us any rights you may have or acquire, including the right to modify the concept, process or improvement, and must waive and/or release all rights of restraint and moral rights. You and your principals agree to assist us in obtaining and enforcing the intellectual property rights to any such concept, process or improvement in any and all countries and further agree to sign and provide us with all necessary documentation for obtaining and enforcing such rights. You and your principals must irrevocably designate and appoint us as your agent and attorney-in-fact to sign and file any such documentation and to do all other lawful acts to further the prosecution and issuance of patents or other intellectual property rights related to any such concept, process or improvement. If those provisions of the franchise agreement are found to be invalid or otherwise unenforceable, you and your principals must grant to us a worldwide, perpetual, non-exclusive, fully-paid license to use and sublicense the use of the concept, process or improvement to the extent such use or sublicense would, absent the franchise agreement, directly or indirectly infringe your rights.

**Item 15**  
**OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

You (or at least 1 of your principals if you are a corporation, limited liability company or partnership) must devote your best efforts to the management and operation of your restaurant. You may, however, delegate the day-to-day supervision of the operation of your restaurant to a manager (“Manager”). Your Manager must successfully complete our initial training before assuming any managerial

responsibility. Your restaurant must, at all times, be managed by you or a Manager who has successfully completed our initial training. If you operate more than 1 Zoup! restaurant, you must have a properly trained Manager at each location. You must keep us informed at all times of the identity of any person acting as the Manager of your restaurant. A Manager must devote full time and best efforts to the day-to-day supervision of the operation of your restaurant. A Manager must have full authority to act on your behalf in dealings with us. If a Manager resigns or is otherwise terminated, you must hire a replacement Manager who meets our then-current standards for Managers within 30 days after the resignation or termination of the former Manager. The new Manager must complete initial training to our satisfaction within 60 days after being hired, subject to the availability of our training personnel. If you are a corporation or partnership, your Manager need not have an ownership interest in your restaurant.

Your Manager and all other personnel who will have access to our proprietary and Confidential Information and training must sign our Confidentiality and Restrictive Covenant Agreement, which is attached to our Franchise Agreement as Attachment 5. If your Zoup! restaurant is owned by an entity, all owners of the entity must personally sign the Franchise Agreement as a Principal. If you are a married individual, your spouse must sign our Spouse Guaranty, which is attached to our Franchise Agreement as Attachment 2.

During the initial term of the franchise, and during any renewal term, we may, in our sole discretion, perform or obtain credit reports, lien searches or other background searches on you or your principals that we consider appropriate. You consent to our performing or obtaining credit reports, lien searches or other background searches and must cooperate with us in conducting or obtaining any credit report, lien search or background checks. We will provide you with a copy of any report on your written request.

#### **Item 16 RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You may offer for sale and sell only those food and beverage products and accompanying services that we have approved for the System.

You must offer all services and products that we designate as required for all franchisees. You must participate in our catering program, under which you must offer catering and delivery services in accordance with our standards and specifications, which will be provided to you by way of the Operations Manuals or otherwise in writing.

We may add additional services and products, and you must offer and sell those additional services or products and upgrade or acquire equipment, if necessary, to do so. There are no limits on our right make changes to the types of authorized goods and services you are required to sell. This requirement is in addition to any remodeling and renovation obligations you have under the franchise agreement. We may also designate some services and products as optional.

You must prepare, package and serve all food and beverages, and your restaurant must be maintained and operated, in accordance with our standards and specifications. You must at all times maintain sufficient levels of inventory and adequately satisfy consumer demand.

You must operate your restaurant in accordance with all applicable laws and regulations, and in accordance with the requirements of your lease or sublease.

You may not conduct any other business at your restaurant location. Vending machines, video games or any similar coin-operated machines may not be used on your restaurant premises. Also, marketing or solicitation materials for other businesses not associated with the Zoup! system are not permitted without our prior written consent.

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

**A. THE FRANCHISE RELATIONSHIP**  
**(UNDER A SINGLE UNIT FRANCHISE AGREEMENT)**

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

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
a.	Term of franchise	2.1	10 years.
b.	Renewal or extension of the term	2.2	You have the right to renew the franchise for successive 10-year terms, if certain conditions are met.
c.	Requirements for you to renew or extend	2.2	You timely notify us in writing of your intention to renew; you have the right to operate your restaurant at the accepted location for the duration of the renewal term or have secured an acceptable substitute location; you have satisfactorily completed no later than 90 days before the expiration of the then-current term, all necessary maintenance, refurbishing, renovating, updating and remodeling of your restaurant premises to bring your restaurant and all equipment into full compliance with our then-current System standards and specifications; you are not in breach of any provision of the franchise agreement, or any other agreement between you and us, our affiliates, and/or our major suppliers and vendors, and you have substantially complied with all such agreements during their respective terms; you have satisfied all monetary obligations you owe us, our affiliates, and/or our major suppliers and vendors; you sign our then-current form of franchise agreement, which may have terms and conditions that are materially different from your original contract; you satisfy our then-current training requirements; you must meet our operational standards, to include but not limited to, the quality, service and cleanliness of your restaurant; you sign a general release; and you pay us a renewal fee of \$17,500. The renewal of your Franchise Agreement is at Zoup!'s sole discretion.
d.	Termination by you	Not Applicable	The Franchise Agreement does not give you any right to terminate. You may seek termination upon any grounds permitted by law.
e.	Termination by us without cause	Not Applicable	Not Applicable.
f.	Termination by us with cause	15	We have the right to terminate the franchise with cause.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
g.	Cause defined - default which can be cured	15.3  15.4	<p>We have the right to terminate the franchise after providing you a 15-day cure period if: (i) you fail to pay any monies you owe us or our affiliates; (ii) you fail to immediately endorse and deliver to us any payment due to us from any 3<sup>rd</sup> party that is erroneously made to you; (iii) you fail to maintain a sufficient inventory level; (iv) you fail to open your restaurant for business within 12 months after the date you sign the franchise agreement; (v) you fail to operate your restaurant at least during the months, days and hours that we prescribe; (vi) you fail to personally supervise your restaurant or maintain sufficient management personnel; (vii) you fail to maintain our quality controls and standards; (viii) you conduct yourself in a manner which reflects adversely on the System, the Proprietary Marks, or our products, including non-participation in system-wide programs we initiate; or (ix) you fail to procure or maintain any licenses, certifications, or permits necessary for the operation of your restaurant.</p> <p>We have the right to terminate the franchise after providing you a 30-day cure period if you fail to perform or comply with any 1 or more of the terms or conditions of the franchise agreement.</p>



	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
h.	Cause defined - default which cannot be cured	15.1  15.2	<p>The franchise will automatically terminate without notice or an opportunity to cure if: (i) you make an assignment for the benefit of creditors, file a voluntary petition in bankruptcy, are adjudicated bankrupt or insolvent, file or acquiesce in the filing of a petition seeking reorganization or arrangement under any federal or state bankruptcy or insolvency law, or consent to or acquiesce in the appointment of a trustee or receiver for you or your restaurant; (ii) proceedings are commenced to have you adjudicated bankrupt or to seek your reorganization under any state or federal bankruptcy or insolvency law, and such proceedings are not dismissed within 60 days, or a trustee or receiver is appointed for you or your restaurant without your consent, and the appointment is not vacated within 60 days; (iii) you purport to sell, transfer or otherwise dispose of your or any interest in your restaurant without our written approval.</p> <p>We may terminate the franchise with notice without providing you an opportunity to cure if: (i) you take part in criminal acts or misconduct; (ii) you commit fraud in the operation of your restaurant; (iii) you make any misrepresentations in connection with the franchise application; (iv) you fail to complete our initial training program; (v) you receive 2 or more written notices of default within any 12-month period; (vi) you materially breach any other agreement with us or our affiliates; (vii) you misuse the Proprietary Marks or Confidential Information; (viii) you violate any health, safety or sanitation law; (ix) your restaurant, in our reasonable opinion, is found to pose a risk to customers' health and safety; (x) you violate the in-term restrictive covenants of the franchise agreement; (xi) a lien or writ of attachment or execution is placed against you and is not released or bonded against within 30 days; (xii) you are insolvent; (xiii) you abandon your restaurant; (xiv) you offer any unauthorized or unapproved services or products at or from your restaurant; (xv) you order or purchase supplies from unapproved suppliers; (xvi) you misuse our proprietary software; (xvii) you fail to maintain insurance; (xviii) you fail to comply with any governmental notice of non-compliance with any law or regulation within 15 days after the notice; (xix) any governmental action is taken against you that results in any obligation on us; (xx) you fail to comply with any laws or regulations regarding terrorism; (xxi) you take any assets or property of your restaurant for your personal use; (xxii) there are insufficient funds in your bank account to cover a check or EFT payment to us 3 or more times within any 12-month period; (xxiii) audit reveals you have underreported Net Sales or overstated local advertising expenditures by more than 2%; and (xxiv) you fail to open your restaurant within 15 days after the expiration of the Required Opening Date or open your restaurant without our prior written approval.</p>
i.	Your obligations on termination/ non-renewal	16.1 – 16.2	<p>On termination or expiration of the franchise, you must: (i) cease all operations under the franchise agreement; (ii) promptly pay all sums you owe us; (iii) cease using the Proprietary Marks and the System; (iv) return to us the Operations Manuals and all other manuals, proprietary and Confidential Information; (v) cease using and assist in transferring all of your telephone numbers, domain names and websites to us; (vi) vacate your restaurant premises if we exercise our rights under the Collateral Assignment of Lease; (vii) promptly make such changes and modifications to facility; (viii) return to us all items reflecting the Proprietary Marks; (ix) cease holding yourself out as our franchisee; (x) take necessary action to amend or cancel any business name or equivalent registration which contains any of our trade names or Proprietary Marks; (xi) allow us to inspect your financial records; (xii) comply with the post term covenants contained in the franchise agreement; (xiii) cease to use in advertising or in any other manner any methods, procedures or techniques associated with us or the System; (xiv) pay liquidated damages, if termination was due to your default; and (xiv) sign any papers, documents, and assurances necessary to effectuate termination or nonrenewal.</p>

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
j.	Assignment of contract by us	14.6	We have the right to assign our rights under the franchise agreement.
k.	“Transfer” by you - definition	14.3	A sale, transfer or assignment requiring our prior written consent occurs: (i) if you are a corporation, on any assignment, sale, pledge or transfer of any fractional portion of your voting stock, or any increase in the number of outstanding shares of your voting stock which results in a change in ownership; (ii) if you are a partnership, on the assignment, sale, pledge or transfer of any fractional partnership ownership interest; or (iii) if you are a limited liability company, on any assignment, sale, pledge or transfer of any fractional portion of any interest in the limited liability company.
l.	Our approval of transfer by franchisee	14.1	You may not transfer any rights in the franchise without our prior written consent. We have the right to condition our approval of any sale, transfer, assignment or encumbrance as described below.
m.	Conditions for our approval of transfer	14.3.2	We will approve a proposed transfer if: (i) all of your accrued monetary obligations to us have been paid, including, any commission due to us as a result of the sale; (ii) all existing defaults under the franchise agreement have been cured; (iii) you sign a general release in favor of us and our affiliates; (iv) you provide us a copy of the signed purchase agreement; (v) the transferee meets our qualifications; (vi) the transferee signs our then-current franchise agreement; (vii) you or the transferee pays us a transfer fee equal to 50% of our then-current initial franchise fee if transferring to an existing Zoup! franchisee or 75% of our then-current initial franchise fee if transferring to a new, non-franchisee; (viii) if we require a remodel, the transferee must have the then current remodel cost placed in a secure escrow account prior to settlement; (ix) the transferee satisfactorily completes our initial training program; (x) you comply with the post term provisions of the franchise agreement; (xi) the transferee obtains all necessary licenses and permits required to operate your restaurant; (xii) to the extent required by the terms of any leases or other agreements, the lessors or other parties have consented to the proposed transfer; (xiii) the transfer is made in compliance with all applicable laws; (xiv) the purchase price and terms of the proposed transfer are not so burdensome to the prospective transferee as to impair or materially threaten the future operation of the transferee’s restaurant and performance under the franchise agreement; (xv) you request that we provide the prospective transferee with our current form of disclosure document and we will not be liable for any representations not included in the disclosure document; (xvi) our approval of the transfer will not constitute a waiver of any claims we may have against the transferring party; (xvii) we will have the right to disclose to any prospective transferee such revenue reports and other financial information concerning you and your restaurant as you have supplied us; (xviii) you are responsible for payment of all commissions or other monies due from the sale of your restaurant if: (a) you listed your restaurant with a broker; or (b) transferee is referred to us by a broker lead referral network or otherwise; and (xix) we may withhold or condition our consent to any transfer as we deem appropriate based on the circumstances of the transfer or otherwise.
n.	Our right of 1st refusal to acquire your business	14.3.1	You must first offer to sell to us on the same terms and conditions as those offered by a 3 <sup>rd</sup> party. We will notify you, within 30 days after receiving the offer, whether we wish to exercise our right to purchase your restaurant.
o.	Our option to purchase your business	16.3	We have an option to purchase your restaurant on termination or expiration of the franchise.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
p.	Your death or disability	14.2	On your death or disability, your rights under the franchise agreement may pass to your heirs or legatees, if, within 90 days after your death or disability, they agree to assume your obligations under the franchise agreement, successfully complete our initial training program, and otherwise meet our satisfaction.
q.	Non-competition covenants during the term of the franchise	17.1	During the term of the franchise, neither you, your principals, nor any spouse or dependents of you or your principals or guarantor may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation: (i) own, maintain, engage in, be employed by, lend money to, extend credit to or have any interest in any other business offering or licensing others to offer, in whole or in part, entrée salads, made to order salads, sandwiches, panini, pasta or any other services and/or products similar to or offered by Zoup! restaurants provided, however, that this Section does not apply to the operation of any other Zoup! restaurant under a valid franchise agreement with us or (ii) divert or attempt to divert any business or customer of your restaurant to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Proprietary Marks or the System.
r.	Non-competition covenants after the franchise is terminated or expires	17.2	<p>For a period of 3 years after the expiration and non-renewal, transfer or termination of the franchise, regardless of the cause, neither you, your principals, nor any spouse or dependent of you or your principals may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation enter into any business competing with us in granting franchises or licenses to operate businesses offering in whole or in part, entrée salads, made to order salads, sandwiches, panini, pasta or any other services and/or products similar to or offered by Zoup! restaurants at the time the franchise is terminated or otherwise expires and is not renewed.</p> <p>For a period of 3 years after the expiration, transfer or termination of the franchise, regardless of the cause, neither you, your principals, nor any spouse or dependent of you or your principals may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation: own, maintain, engage in, lend money to, be employed by, or have any interest in any other business offering, in whole or in part, entrée salads, made to order salads, sandwiches, paninis, pasta or any other services and/or products similar to or offered by Zoup! restaurants (i) at your restaurant; (ii) within the Territory; or (iii) within a radius of 10 miles of the perimeter of: (a) the Territory; (b) any other territory licensed by us as of the date of expiration or termination of the franchise; or (c) any territory where a Zoup! franchise is under development as of the date of expiration or termination of the franchise; or</p> <p>Solicit customers of your former restaurant for any competitive business purpose or contact any of our suppliers or vendors for any competitive business purpose.</p>
s.	Modification of the Franchise Agreement	22.1	The franchise agreement may only be modified or amended in a writing signed by all parties, but the Operations Manuals are subject to change.
t.	Integration/merger clauses	22.1	Only terms of franchise agreement, including its attachments, are binding (subject to 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	18.2	You must bring any disputes to our President and/or Chief Executive Officer before bringing a claim before any 3 <sup>rd</sup> party. Failure to comply will result in irreparable harm to us.

	Provision	Section in Franchise Agreement	Summary
v.	Choice of forum	18.3	All claims must be brought before court of general jurisdiction in Montgomery County, Pennsylvania or the United States District Court for the Eastern District of Pennsylvania. You consent to the personal jurisdiction and venue of any court of general jurisdiction in Montgomery County, Pennsylvania, and the United States District Court for the Eastern District of Pennsylvania. (Subject to state law)
w.	Choice of law	18.1	The franchise agreement is governed by the laws of the Commonwealth of Pennsylvania. (Subject to state law)

**Item 18  
PUBLIC FIGURES**

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

**Item 19  
FINANCIAL PERFORMANCE REPRESENTATION**

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 any 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 only be given 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.

This Item contains a historic financial performance representation about our existing franchised outlets that were in operation in fiscal year 2022. As of September 25, 2022, our fiscal year end, there were 62 franchised outlets operating in the Zoup! System. The data below represent performance of 56 franchised outlets, which operated continuously throughout fiscal year 2022. We have excluded the financial performance of 6 outlets for the following reasons: (i) 2 franchised outlets had temporary closures in 2022 due to staffing issues and covid-19 restrictions, (ii) 1 franchised outlet was temporarily closed due to landlord’s sale of the shopping center, (iii) 1 franchised outlet temporarily closed due to a transfer of ownership, (iv) 1 franchised outlet opened in 2022 and did not operate for the full calendar year, and (v) 1 franchised outlet was temporarily closed due to a change in ownership at the end of calendar year 2021.

The data used in preparing this financial performance representation was compiled from information submitted to us by the franchisees in their unaudited sales reports for their franchised restaurants. While we believe that these sales reports contain accurate information, we have not independently verified the information.

**Net Sales<sup>1</sup> – Franchised Outlets as of September 25, 2022**

Quartiles	# of Stores	Average Net Sales	Median Net Sales	Highest Net Sales	Lowest Net Sales
Top 25%	14	829,542	803,827	1,085,143	667,702
Tier II	14	589,460	594,685	648,946	507,921
Tier III	14	455,805	461,094	506,895	380,929
Bottom 25%	14	290,779	325,932	380,661	125,734

<sup>1</sup>Net Sales means the full amount payable by the franchisees' customers, less sales taxes, discounts, and honored coupons.

Written substantiation for the financial performance representation will be made available to the prospective franchisee upon reasonable request.

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

Other than the preceding financial performance representation, we do not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to our management by contacting Bryan Kelly Roddy, Zoup Franchising, Co., LLC, 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, Florida, 33733, (610) 894-7753, the Federal Trade Commission, and the appropriate state regulatory agencies.

**Item 20  
OUTLETS AND FRANCHISEE INFORMATION**

**TABLE NO. 1  
System-wide Outlet Summary For years 2020 to 2022**

<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of the Year</b>	<b>Outlets at the End of the Year</b>	<b>Net Change</b>
Franchised	2020	80	68	-12
	2021	68	63	-5
	2022	63	62	-1
Company-Owned*	2020	3	6	+3
	2021	6	3	-3
	2022	3	1	-2
<b>Total</b>	2020	83	74	-9
	2021	74	66	-8
	2022	66	63	-1

\*"Company-Owned" Restaurants are majority owned and operated by our affiliates.

**Table No. 2  
Transfers of Outlets From Franchisees to New Owners  
(Other than the Franchisor)  
For Years 2020 to 2022**

<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
Colorado	2020	0
	2021	1
	2022	0
Indiana	2020	0
	2021	1

State	Year	Number of Transfers
	2022	0
Michigan	2020	1
	2021	1
	2022	1
Ohio	2020	2
	2021	5
	2022	1
Virginia	2020	0
	2021	1
	2022	0
Canada	2020	1
	2021	0
	2022	0
Total	2020	3
	2021	9
	2022	2

**Table No. 3**  
**Status of Franchised Outlets**  
**For Years 2020 to 2022**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Re-acquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of Year
CO	2020	4	0	0	0	0	0	4
	2021	4	0	0	0	0	0	4
	2022	4	0	0	0	0	0	4
DE	2020	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
IL	2020	5	0	0	0	0	1	4
	2021	4	0	0	0	0	1	3
	2022	3	0	0	0	0	0	3
IN	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	1	1	0	0	0	2
KY	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	1	1
	2022	1	0	0	0	0	0	1
MD	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	1	0
	2022	0	0	0	0	0	0	0
MI	2020	14	1	0	0	1	1	13
	2021	13	0	0	0	0	1	12
	2022	12	1	0	0	0	0	13
MN	2020	1	0	0	0	0	1	1
	2021	1	0	0	0	0	0	0

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Re-acquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of Year
	2022	0	0	0	0	0	0	0
NE	2020	1	1	0	0	0	1	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
NJ	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	1	0	0	0	0
NY	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
OH	2020	25	0	0	0	2	3	20
	2021	20	1	0	0	0	0	21
	2022	21	0	0	0	0	0	21
OR	2020	1	0	0	0	0	1	0
	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
PA	2020	11	0	0	0	0	1	10
	2021	10	0	0	0	0	1	9
	2022	9	0	1	0	0	0	8
SD	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
VA	2020	4	0	0	0	0	0	4
	2021	3	0	0	0	0	1	2
	2022	2	0	0	0	0	0	2
WI	2020	1	0	0	0	1	0	0
	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
Canada	2020	3	0	0	0	0	0	3
	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
Totals	2020	80	2	0	0	4	10	68
	2021	68	1	0	0	0	6	63
	2022	63	2	3	0	0	0	62

**Table No. 4**  
**Status of Company-Owned Outlets**  
**For Years 2020 to 2022**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
Michigan	2020	2	0	1	0	0	3
	2021	3	0	0	0	0	3
	2022	3	0	0	1	1	1
Ohio	2020	0	0	3	0	0	3
	2021	3	0	0	0	3	0
	2022	0	0	0	0	0	0
Wisconsin	2020	1	0	1	1	0	1
	2021	1	0	0	1	0	0
	2022	0	0	0	0	0	0
Totals	2020	3	0	4	10	0	6
	2021	6	0	0	1	2	3
	2022	3	0	0	1	1	1

All of the outlets reflected in Table No. 4 are majority owned and operated by our affiliates.

**Table No. 5**  
**Projected Openings as of September 25, 2022**

State	Franchise Agreements Signed But Outlet Not Yet Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company-Owned Outlets in the Next Fiscal Year
Ohio	1	1	0
Ontario, Canada	1	1	0
Virginia	1	1	0
Totals	3	3	0

The information for in the tables is as of December 31<sup>st</sup> of each year, our predecessor's fiscal year end.

Exhibit B contains the names of all current franchisees, and the addresses and telephone numbers of their outlets.

Exhibit C contains the name, city and state, and the current business telephone number (or, if unknown, the last known home telephone number) of every franchisee that had a franchise terminated, cancelled, not renewed (2); franchisees transferred (5); franchisees ceased operations for other reasons or voluntarily or involuntarily ceased to do business under the franchise agreement (3); or who had not communicated with us within 10 weeks of the issuance date of this disclosure document (0).

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

In the last 3 fiscal years, franchisees have signed confidentiality clauses with our predecessor. In some instances, current and former franchisees signed provisions restricting their ability to speak openly



about their experiences with our predecessor. You may wish to speak with current or former franchisees but be aware that not all franchisees will be able to communicate with you.

**Item 21**  
**FINANCIAL STATEMENTS**

Exhibit E includes our parent company’s (Restaurant Co., LLC’s) audited financial statements as of September 25, 2022, September 26, 2021, and September 27, 2020. Exhibit E also includes our parent company’s unaudited balance sheet and income statement as of December 25, 2022.

Our parent guarantees our performance under the franchise agreement.

We use a 52/53-week fiscal year ending on the last Sunday on or before September 30. Our fiscal year end in 2022 was September 25.

**Item 22**  
**CONTRACTS**

Exhibits A, G, H, I, and J contain all contracts proposed for use or in use regarding the offer of this franchise, including the following agreements.

- Exhibit A      Zoup! Franchise Agreement
  - Attachment 1 – Site Selection Addendum
  - Attachment 2 – Spouse Guaranty
  - Attachment 3 – Lease Option Agreement
  - Attachment 4 – Conditional Assignment of Franchisee’s Telephone Numbers, Domain Names and Websites
  - Attachment 5 – Confidentiality and Restrictive Covenant Agreement
  - Attachment 6 – Electronic Funds Withdrawal Authorization
- Exhibit G      Sample Consent to Transfer and Termination and Release Agreement
- Exhibit H      Sysco Application and Agreement
- Exhibit I      Sublease
- Exhibit J      Worldpay Contract

**Item 23**  
**RECEIPTS**

Exhibit M includes detachable documents acknowledging your receipt of this disclosure document.

**EXHIBIT A**  
**FRANCHISE AGREEMENT AND ATTACHMENTS**

**ZOUP FRANCHISING CO., LLC  
FRANCHISE AGREEMENT**

**DATA SHEET**

Franchisee: \_\_\_\_\_  
(Individual(s) and \_\_\_\_\_  
Entity, if applicable) \_\_\_\_\_

Spouse Guarantor(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Accepted Location: \_\_\_\_\_  
\_\_\_\_\_

Territory: \_\_\_\_\_  
\_\_\_\_\_

Site Search Area: \_\_\_\_\_

Initial Franchise Fee: \_\_\_\_\_

**The terms of this Data Sheet are incorporated into the attached Franchise Agreement.**

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**ZOUP FRANCHISING CO., LLC**  
**FRANCHISE AGREEMENT**

THIS AGREEMENT (the “Agreement” or “Franchise Agreement”) is entered into and made effective this day of \_\_\_\_\_, by and between Zoup Franchising Co., LLC, a Delaware limited liability company, with its principal business address at 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, Florida, 33733 (“Franchisor”) and the Franchisee identified in the attached Data Sheet (“Franchisee”).

**RECITALS**

**WHEREAS**, Franchisor and/or its principal and/or predecessor: (i) has developed a system for the operation of a restaurant offering on-premises dining, carry-out services, and catering and delivery services featuring a variety of soups, bowls, sandwiches, salads, baked onsite bread, and related items, as designated by Franchisor, prepared in accordance with specified recipes and procedures (“Menu Items”); (ii) has developed and continues to further develop a proprietary line of food products as designated by Franchisor (“Proprietary Food Products”); and (iii) may develop and offer and sell at retail an assortment of private-labeled products and merchandise bearing the Proprietary Marks (as defined below), as designated by Franchisor (“Proprietary Trademarked Products”), all of which may be changed by Franchisor from time to time; and

**WHEREAS**, Franchisor is engaged in the business of granting franchises to operate Zoup!® restaurants; and

**WHEREAS**, Franchisee desires to enter into an agreement with Franchisor to obtain the right to operate a Zoup! restaurant (the “Restaurant”) using the system developed by Franchisor or its affiliate, which system includes, without limitation, standards and specifications for designs, décor, color schemes, furniture, fixtures, equipment, signs, services, and products; product preparation methods, techniques and recipes (Proprietary Recipes”); sales, merchandising, marketing and advertising techniques and systems; and procedures for the operation and management of Zoup! restaurants (sometimes collectively referred to as “standards” or “standards and specifications”), in the manner set forth in this Agreement, and in the Operations Manuals, which system Franchisor may change, improve and further develop from time to time (the “System”); and

**WHEREAS**, the System is identified by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin, including, but not limited to, the mark “Zoup!”, all as are now designated and may hereafter be designated by Franchisor in writing for use in connection with the System (the “Proprietary Marks”);

**WHEREAS**, Franchisee has applied to Franchisor for a franchise to operate the Restaurant and such application has been approved in reliance upon all of the representations made therein; and

**WHEREAS**, Franchisee hereby acknowledges that adherence to the terms of this Agreement and the standards and specifications of Franchisor are essential to the operation of the Restaurant and to the operations of the System.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual promises, commitments and understandings contained herein, Franchisor and Franchisee hereby agree as follows:

## 1. GRANT OF FRANCHISE

1.1 **Grant and Acceptance.** Franchisor hereby grants to Franchisee, upon the express terms and conditions contained in this Agreement, and Franchisee hereby accepts, the right to establish and operate the Restaurant, under the System and Proprietary Marks identified below, and the right to use the System and Proprietary Marks in the operation of the Restaurant (“the Franchise”). Franchisor has the right to supplement, improve or otherwise modify the System from time to time in Franchisor’s sole discretion, and Franchisee agrees to comply with all changes which may include, without limitation, the offer and sale of new or different services or products as Franchisor may specify.

1.2 **Exclusions and Reservations.** The foregoing grant to Franchisee does not include: (i) any right to offer any service or product via e-commerce; (ii) any right to establish an independent website or to establish a URL incorporating the Proprietary Marks or any variation thereof; (iii) any right to distribute, market, or implement Franchisor’s services and products in any channel of distribution not specifically identified in this Agreement; and (iv) any right to sell services or products at wholesale prices from the Restaurant. Franchisee expressly understands and agrees that Franchisor and Franchisor’s affiliates shall have the right, in Franchisor’s sole discretion, to: (i) own and operate restaurants at any location(s) outside Franchisee’s Territory under the same or different marks, or to license others the right to own and operate restaurants at any location(s) outside Franchisee’s Territory under the same or different marks; (ii) use the Proprietary Marks and System in connection with services and products, promotional and marketing efforts or related items, or in alternative channels of distribution, including the placing for sales any product, service, soup, bowl, sandwich, or salad station, and/or “store-within-a-store” in or through supermarkets and other retail outlets, non-traditional and captive locations, without regard to location; (iii) own and operate restaurants or businesses, or market similar services and products, at any location(s) inside Franchisee’s Territory under different marks, to license others the right to own and operate restaurants or businesses, or market similar services and products at any location(s) inside Franchisee’s Territory under different marks; (iv) offer and sell, or license to others the right to offer and sell, Zoup! menu items at food service establishments that are located within Franchisee’s Territory and that primarily operate under different marks; and (v) use and license to engage in any other activities not expressly prohibited in this Agreement.

1.3 **Accepted Location.** Franchisee may operate the Restaurant only at the accepted location identified in the Data Sheet (the “Accepted Location”). If Franchisor has not accepted a location for Franchisee to operate the Restaurant as of the date Franchisee signs this Agreement, the parties shall enter into the Site Selection Addendum attached as Attachment 1 to this Agreement, the terms of which shall govern the parties’ site selection obligations. Franchisee may not relocate the Restaurant without Franchisor’s prior written consent, which must be requested at least sixty (60) days in advance. If Franchisor consents to a relocation, Franchisee shall:

1.3.1 identify a new location for the Restaurant that meets Franchisor’s approval, in accordance with Franchisor’s then-current site selection procedures, within ninety (90) days of Franchisor’s consent to relocate;

1.3.2 construct and develop the new site to conform to Franchisor's then-current specifications for design, appearance and leasehold improvements for Restaurants within six (6) months of Franchisor’s consent to the new site;

1.3.3 remove any signs or other property from the original Restaurant location which identified the original Restaurant location as part of the Zoup! system;

1.3.4 remain liable to pay a minimum Royalty Fee and Brand Development Fund contribution that is equal to the average amount paid by Franchisee during the four (4) calendar quarters immediately preceding the date that operations cease or the shorter period that Franchisee had been in business at the original Restaurant location.

If a relocation site acceptable to Franchisor is not identified within ninety (90) days following Franchisee's request to relocate, or if Franchisee fails to complete the build-out and open for business at the new location within six (6) months of Franchisor's consent to the new site, Franchisor may terminate this Agreement. The term of this Agreement shall not abate during any relocation of the Restaurant.

1.4 **Territory.** Except as otherwise provided in this Agreement, for so long as Franchisee complies with the terms and conditions hereof, Franchisor shall not establish and operate, nor license any party other than Franchisee to establish and operate, any Zoup! restaurant under the System and the Proprietary Marks within the protected area identified in the Data Sheet, the terms of which are incorporated herein by reference ("Territory"), during the term of the Franchise; provided, however, that Franchisor and its affiliates retain all other rights, including without limitation to, the right to distribute services and products as described in Section 1.2 hereof within the Territory. If Franchisor has not accepted a location for Franchisee to operate the Restaurant as of the date Franchisee signs this Agreement, Franchisor shall assign the Territory within 30 days after Franchisee's execution of a lease for an Accepted Location. Franchisor shall have the right, among others, during the term of the Franchise to use, and to license others to use, the System and Proprietary Marks for the operation and licensing of other restaurants at any locations outside of the Territory. The scope of the Territory shall be within Franchisor's discretion. Notwithstanding the foregoing, Franchisor shall have the right, among others, during the term of the Franchise, to use, and to license others to use, the System and Proprietary Marks for the operation and licensing of other restaurants within Franchisee's Territory, if the restaurants are located in captive locations, including, but not limited to enclosed shopping centers, amusement or theme parks, sports stadiums and arenas, airports or train stations.

1.5 **Other Channels of Distribution.** Franchisee acknowledges and agrees that certain of Franchisor's or its affiliates' products, whether now existing or developed in the future, may be distributed in Franchisee's Territory by Franchisor, Franchisor's affiliates, or Franchisor's franchisees, licensees or designees, in such manner and through such channels of distribution as Franchisor, in its sole discretion, shall determine. Such alternate channels of distribution shall include, but are not limited to, placing for sales any product, service, soup, bowl, sandwich, or salad station and/or "store-within-a-store" in offered under the Proprietary Marks at or through grocery stores, supermarkets, catering services, amusement or theme parks, sports stadiums and arenas, enclosed shopping centers, institutional feeding facilities, military bases, airports, train stations, gas stations or any other non-traditional or captive locations, including Franchisor's branded food truck. Franchisor reserves the right, among others, as to any distribution arrangements relating thereto. Franchisee understands that this Agreement grants Franchisee no rights: (i) to distribute such products as described in this Section 1.6; or (ii) to share in any of the proceeds received by any such party therefrom.

## 2. INITIAL TERM AND RENEWAL TERMS

2.1 **Initial Term.** The initial term of the Franchise is for a period of 10 years which will begin upon your Restaurant opening date.

2.2 **Renewal Terms.** Franchisee has the right to renew this Agreement for successive 10-year periods, provided Franchisee has met the following conditions:

2.2.1 Franchisee has notified Franchisor of Franchisee's intention to renew this Agreement in writing at least 6 months, but not more than 12 months, prior to expiration of the then-current term;

2.2.2 Franchisee has demonstrated to Franchisor's satisfaction that Franchisee has the right to operate the Restaurant at the Accepted Location for the duration of the renewal term; or, if Franchisee is unable to operate the Restaurant at the Accepted Location, Franchisee has secured a substitute location which has been accepted by Franchisor;

2.2.3 Franchisee has completed, to Franchisor's satisfaction, no later than 90 days prior to the expiration of the then-current term, all maintenance, refurbishing, renovating, updating and remodeling of the Restaurant premises required by Franchisor to bring the Restaurant and all equipment into full compliance with Franchisor's then-current System standards and specifications;

2.2.4 Franchisee is not in default of any provision of this Agreement, or any other agreement between Franchisee and Franchisor, Franchisor's affiliates, or Franchisor's major suppliers and vendors, and Franchisee has substantially complied with all such agreements during their respective terms;

2.2.5 Franchisee has satisfied all monetary obligations Franchisee owes Franchisor, Franchisor's affiliates, and Franchisor's major suppliers and vendors;

2.2.6 Franchisee executes Franchisor's then-current form of franchise agreement, the terms of which may vary materially from the terms of this Agreement and may include, without limitation, increased royalty fees and advertising obligations;

2.2.7 Franchisee satisfies Franchisor's then-current training requirements for renewing franchisees at Franchisee's expense, as of the date of such renewal, if any;

2.2.8 Franchisee signs a general release, in the form Franchisor prescribes. The release shall not be inconsistent with any applicable state statute regulating franchises; and

2.2.9 Franchisee pays Franchisor a renewal fee of \$17,500.

2.3 Within 90 days after its receipt of such timely notice, Franchisor shall furnish Franchisee with written notice of: (i) reasons which could cause Franchisor not to grant a renewal to Franchisee, including, but not limited to, any deficiencies which require correction and a schedule for correction thereof by Franchisee; and (ii) Franchisor's then-current requirements relating to the image, appearance, decoration, furnishing, equipping and stocking of Zoup! restaurants, and a schedule for effecting upgrading or modifications in order to bring the Restaurant into compliance therewith, as a condition of renewal. Renewal of the Franchise shall be conditioned upon Franchisee's compliance with such requirements and continued compliance with all the terms and conditions of this Agreement up to the date of expiration of the initial term of the Franchise. If Franchisor elects not to renew the Franchise, Franchisor shall provide written notice of its election not to renew the Franchise at least 2 months prior to the expiration of the initial term of the Franchise.

### **3. FEES**

3.1 **Initial Franchise Fee.** In consideration of the Franchise granted to Franchisee by Franchisor, Franchisee must pay Franchisor an initial franchise fee of \$35,000, in full, when Franchisee signs this Agreement. The initial franchise fee is non-refundable and is deemed fully earned upon payment in consideration of administrative and other expenses Franchisor incurs in granting the Franchise and for Franchisor's lost or deferred opportunity to franchise others.



3.2 **Royalty Fee.** Franchisee must pay Franchisor a weekly royalty fee equal to 6% of Net Sales. “Net Sales” include all revenue Franchisee generates from all business conducted at or from the Restaurant during the preceding reporting period, including amounts received from the sale and delivery of services, products, and merchandise of any nature whatsoever, whether in cash or for credit, and whether collected or uncollected. “Net Sales” includes the full amount payable by Franchisee’s customers, without deduction for Franchisee’s own or third-party delivery costs. “Net Sales” do not include the amount of any applicable sales tax imposed by any federal, state, municipal or other governmental authority if such taxes are stated separately when the customer is charged and Franchisee pays such amounts as and when due to the appropriate taxing authority. Net Sales do not include discounts, employee discounts or coupons honored by Franchisee. All barter and exchange transactions for which Franchisee furnishes services or products in exchange for goods or services to be provided to Franchisee by a vendor, supplier or customer will be valued at the full retail value of the goods or services provided to Franchisee.

3.3 **Calculation of Royalty Fee.** Franchisee shall supply Franchisor with all Net Sales data specified by Franchisor in this Agreement and in the Operations Manuals or as Franchisor directs from time to time for the purpose of calculating the weekly royalty fee. All Net Sales data which is electronically provided to Franchisor on a weekly basis through the Restaurant’s point of sale system shall be certified to be true and correct by Franchisee on the form as prescribed by Franchisor. Franchisor shall review the Net Sales data provided by Franchisee and shall deduct the required royalty fee in accordance with Section 3.4 of this Agreement. Franchisee will make available to Franchisor, either through compatible computer communications equipment or some other medium as designated by Franchisor in its sole discretion, for reasonable inspection at reasonable times, all original books and records that Franchisor may deem necessary to ascertain Net Sales.

3.4 **Training and Customer Service Fee.** Franchisee must pay Franchisor a weekly training and customer service fee (“Training and Customer Service Fee”) in an amount equal to 0.5% of Net Sales. Franchisor reserves the right to increase the Training and Customer Service Fee to an amount not to exceed 1% of Net Sales upon thirty days written notice to Franchisee. The Training and Customer Service Fee shall be paid in the same manner as the royalty fee, as set forth in Section 3.6 below, by Wednesday of each week based on Net Sales for the preceding business week.

3.5 **Technology License and Development Fee.** Franchisee must pay Franchisor a weekly technology license and development fee (“Technology License and Development Fee”) for Franchisor’s development and maintenance of technology systems for use by System restaurants. Payment of the Technology License and Development Fee shall be made through the EFT Program, as described in Section 3.5 below. The amount of the Technology License and Development Fee is \$146.42 weekly as of the date of this Agreement. Franchisor reserves the right to modify the amount of the Technology License and Development Fee and the services included therein at any time.

3.6 **Manner of Payment.** Payment of royalty fees shall be made on a weekly basis, following receipt of each week’s Net Sales data, and shall be by an electronic funds transfer program (the “EFT Program”) under which Franchisor automatically deducts all payments owed to Franchisor under this Agreement, or any other agreement between Franchisee and Franchisor, from Franchisee’s bank account. Franchisee shall deposit all revenue from the operation of the Restaurant into one bank account within 2 days after receipt, including cash, checks, and credit card receipts. Before opening the Restaurant, Franchisee shall provide Franchisor with Franchisee’s bank name, address and account number, a voided check from such bank account, and sign and give to Franchisor and Franchisee’s bank, all documents, including Attachment 6 to this

Agreement, necessary to effectuate the EFT Program and Franchisor's ability to withdraw funds from such bank account via electronic funds transfer. Franchisee shall immediately notify Franchisor of any change in Franchisee's banking relationship, including changes in account numbers. Franchisor reserves the right to require Franchisee to pay any fees due under this Agreement by such other means as Franchisor may specify from time to time. If the Net Sales data has not been received within the time period required by this Agreement, then Franchisor may process an electronic funds transfer for the subject week in the amount of 125% of the last royalty fee and brand development fund fee paid by Franchisee to Franchisor (the "Automatic Draw"), provided, that if a Net Sales data for the subject week is subsequently received and reflects: (i) that the actual amount due was more than the amount of the Automatic Draw, then Franchisor shall be entitled to withdraw additional funds through EFT from Franchisee's designated bank account for the difference; or (ii) that the actual amount due was less than the amount of the Automatic Draw, then Franchisor shall credit the excess amount to the payment of Franchisee's future obligations. Franchisor reserves the right to apply any payment received from Franchisee to any amounts Franchisee owes Franchisor or its affiliates under this Agreement or any other agreement regardless if Franchisee has designated the payment for another purpose or account. Franchisor may accept any check or payment in any amount from Franchisee without prejudice to Franchisor's right to recover the balance of the amount due or to pursue any other right or remedy. No endorsement or statement on any check or payment or in any letter accompanying any check or payment or elsewhere shall constitute or be considered as an accord or satisfaction.

3.7 **Insufficient Funds.** As part of Franchisee's participation in the EFT Program, if the funds in Franchisee's bank account are insufficient to cover any amounts due under this Agreement on the date such funds are due, in addition to the overdue amount, Franchisor has the right to immediately debit from Franchisee's bank account interest on such amount from the date it was due until all past due amounts are paid, at a rate of the lesser of 18% per annum or the maximum rate permitted by law, plus a fee of \$100. Should any EFT not be honored by Franchisee's bank for any reason, Franchisee agrees that Franchisee shall be responsible for that payment and any service charge. If any payments are not received when due, Franchisee will be charged a fee of \$100, and interest may be charged at a rate of the lesser of 18% per annum or the maximum rate permitted by law.

3.8 **Failure to Timely Pay Fees.** Any late payment or underpayment of the royalty fee or advertising fee, and any other charges or fees Franchisee owes Franchisor or Franchisor's affiliates, will bear interest from the due date until paid at the lesser of 18% interest per year or the highest lawful interest rate which may be charged for commercial transactions in the state in which the Restaurant is located. Nothing contained in this Section shall prevent Franchisor from exercising, in Franchisor's sole judgment, any other rights or remedies available to Franchisor under this Agreement, plus a fee of \$100.

3.9 **Taxes on Payments.** In the event any taxing authority, wherever located, imposes any future tax, levy or assessment on any payment Franchisee makes to Franchisor, Franchisee must, in addition to all payments due to Franchisor, pay such tax, levy or assessment.

#### 4. PROPRIETARY MARKS

##### 4.1 Franchisee's Use of the Proprietary Marks.

4.1.1 Franchisee shall use only the Proprietary Marks which Franchisor designates, and shall use them only in the manner Franchisor authorizes and permits;

4.1.2 Franchisee shall use the Proprietary Marks only for the operation of the Restaurant and only at the Accepted Location and in advertising for the Restaurant;

4.1.3 Franchisee shall use all Proprietary Marks without prefix or suffix and in conjunction with the symbols: “TM”, “SM”, “S”, or “®”, as applicable. Franchisee may not use the Proprietary Marks in connection with the offer or sale of any products which Franchisor has not authorized for use in connection with the System. Franchisee may not use the Proprietary Marks as part of Franchisee’s corporate or other legal name, or in any internet domain name or website, or with any prefix, suffix, or other modifying words, terms, designs, or symbols, or in any modified form. Franchisee’s corporate name and all fictitious names under which Franchisee proposes to do business must be approved by Franchisor in writing before use. Franchisee must promptly register at the office of the county in which the Restaurant is located, or such other public office as provided for by the laws of the state in which the Restaurant is located, as doing business under such assumed business name;

4.1.4 Franchisee must identify itself as the owner of the Restaurant (in the manner Franchisor prescribes) in conjunction with any use of the Proprietary Marks including, without limitation, on invoices, order forms, receipts, and business stationery, as well as at such conspicuous locations as Franchisor may designate in writing at the Restaurant premises. Franchisee must use Franchisee’s corporate or limited liability company name either alone or followed by the initials “D/B/A” and the business name “Zoup!”, along with the geographic description as assigned by Franchisor;

4.1.5 Franchisee’s right to use the Proprietary Marks is limited to such uses as are authorized under this Agreement, and any unauthorized use thereof shall constitute an infringement of Franchisor’s rights;

4.1.6 Franchisee shall not use the Proprietary Marks to incur any obligation or indebtedness on Franchisor’s behalf;

4.1.7 Franchisee shall execute all documents Franchisor deems necessary to obtain protection for the Proprietary Marks or to maintain the Proprietary Marks continued validity and enforceability;

4.1.8 Franchisee must promptly notify Franchisor of any suspected unauthorized use of the Proprietary Marks, any challenge to the validity of the Proprietary Marks, or any challenge to Franchisor’s ownership of, Franchisor’s right to use and to license others to use, or Franchisee’s right to use, the Proprietary Marks. Franchisee acknowledges that Franchisor has the sole right to direct and control any administrative proceeding or litigation involving the Proprietary Marks, including any settlement thereof. Franchisor has the right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Marks. Franchisor shall defend Franchisee against any third-party claim, suit, or demand arising out of Franchisee’s use of the Proprietary Marks. If Franchisor, in Franchisor’s sole discretion, determines that Franchisee has used the Proprietary Marks in accordance with this Agreement, Franchisor shall bear the cost of such defense, including the cost of any judgment or settlement. If Franchisor, in Franchisor’s sole discretion, determines that Franchisee has not used the Proprietary Marks in accordance with this Agreement, Franchisee shall bear the cost of such defense, including the cost of any judgment or settlement. In the event of any litigation relating to Franchisee’s use of the Proprietary Marks, Franchisee shall execute any and all documents and do such acts as may, in Franchisor’s opinion, be necessary to carry out such defense or prosecution including, without limitation, becoming a nominal party to any legal action. Except to the extent that such litigation is the result of Franchisee’s use of the Proprietary Marks in a manner inconsistent with the terms of this Agreement, Franchisor agrees to reimburse Franchisee for Franchisee’s out-of-pocket costs in performing such acts.

4.1.9 Franchisee expressly understands and acknowledges:

4.1.9.1 Franchisor owns all right, title, and interest in and to the Proprietary Marks and the goodwill associated with and symbolized by them, and Franchisor has the right to use, and license others to use, the Proprietary Marks;

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

4.1.9.3 During the term of the Franchise and after the expiration or termination of the Franchise, Franchisee shall not directly or indirectly contest the validity of, or Franchisor's ownership of, or right to use and to license others to use, the Proprietary Marks;

4.1.9.4 Franchisee's use of the Proprietary Marks does not give Franchisee any ownership interest or other interest in or to the Proprietary Marks;

4.1.9.5 Any and all goodwill arising from Franchisee's use of the Proprietary Marks shall inure solely and exclusively to Franchisor's benefit; and upon expiration or termination of the Franchise, no monetary amount shall be assigned as attributable to any goodwill associated with Franchisee's use of the System or the Proprietary Marks;

4.1.9.6 Except as specified in Section 1.2 hereof, the license of the Proprietary Marks granted to Franchisee hereunder is non-exclusive and Franchisor retains the right, among others: (i) to use the Proprietary Marks itself in connection with selling services and products; (ii) to grant other licenses for the Proprietary Marks; and (iii) to develop and establish other systems using the Proprietary Marks, similar proprietary marks, or any other proprietary marks, and to grant licenses thereto without providing any rights therein to Franchisee; and

4.1.9.7 Franchisor reserves the right, in Franchisor's sole discretion, to substitute different Proprietary Marks for use in identifying the System and the businesses operating under the System. Franchisee shall discontinue using all Proprietary Marks which Franchisor has modified or discontinued within 10 days after receiving written notice from Franchisor and, at Franchisee's sole cost and expense, shall promptly begin using such additional, modified or substituted Proprietary Marks.

## 5. CONFIDENTIAL INFORMATION

5.1 **Nondisclosure.** During the term of the Franchise, Franchisee will receive information which Franchisor considers trade secrets and confidential information, including standards and specifications for preparing Menu Items, Proprietary Recipes, the buildout of a typical Zoup! restaurant, information about proprietary merchandise, any proprietary software Franchisor may now or in the future create, and the Operations Manuals ("Confidential Information"). Franchisee shall not, during the term of the Franchise or thereafter, communicate, divulge, or use for the benefit of any other person, partnership, association, corporation, or limited liability company any Confidential Information, including, without limitation, trade secrets, the Proprietary Recipes, the Franchisor's copyrighted materials, methods and other techniques and know-how concerning the of operation of the Restaurant which may be communicated to Franchisee or of which Franchisee may be apprised by virtue of Franchisee's operation of the Restaurant. Franchisee also acknowledges and agrees that certain information, including sources of supply, marketing and advertising techniques, sanitation and maintenance procedures, and maintenance of quality standards also constitute trade secrets and confidential information of

Franchisor. Franchisee may divulge Confidential Information only to such of Franchisee's personnel as must have access to it in order to operate the Restaurant. Any and all information, knowledge, know-how, techniques, and other data which Franchisor designates as confidential will be deemed Confidential Information for purposes of this Agreement.

5.2 **Personnel.** At Franchisor's request, Franchisee must require Franchisee's officers, directors, the Managers (as defined in Section 7.10.6), and any personnel having access to any Confidential Information to execute covenants that they will maintain the confidentiality of information they receive in connection with their employment or engagement by Franchisee at the Restaurant. Such covenants shall be in a form satisfactory to Franchisor including, without limitation, specific identification of Franchisor as a third-party beneficiary of such covenants with independent rights to enforce them.

5.3 **New Concepts, Processes and Improvements.** If Franchisee, Franchisee's principals or Franchisee's personnel develop any new concept, process or improvement in the operation or promotion of the Restaurant, Franchisee shall promptly notify Franchisor and provide Franchisor with all necessary related information, without compensation. Any such concept, process or improvement shall become Franchisor's sole property, and Franchisor shall be the sole owner of all patents, patent applications, trademarks, copyrights and other intellectual property rights related thereto. Franchisee and Franchisee's principals hereby assign to Franchisor any rights Franchisee may have or acquire therein, including the right to modify such concept, process or improvement, and otherwise waive and/or release all rights of restraint and moral rights therein and thereto. Franchisee and Franchisee's principals agree to assist Franchisor in obtaining and enforcing the intellectual property rights to any such concept, process or improvement in any and all countries and further agree to execute and provide Franchisor with all necessary documentations for obtaining and enforcing such rights. Franchisee and Franchisee's principals hereby irrevocably designate and appoint Franchisor as Franchisee's agent and attorney-in-fact to execute and file any such documentation and to do all other lawful acts to further the prosecution and issuance of patents or other intellectual property rights related to any such concept, process or improvement. In the event that the foregoing provisions of this Section are found to be invalid or otherwise unenforceable, Franchisee and Franchisee's principals hereby grant to Franchisor a worldwide, perpetual, non-exclusive, fully-paid license to use and sublicense the use of the concept, process or improvement to the extent such use or sublicense would, absent this Agreement, directly or indirectly infringe Franchisee's rights therein.

## 6. FRANCHISOR'S OBLIGATIONS

6.1 **Operations Manuals.** Franchisor will loan Franchisee one copy of Franchisor's proprietary and confidential operations and training manuals (collectively, "Operations Manuals") in electronic format. Franchisee shall operate the Restaurant in strict compliance with the Operations Manuals, as they may be reasonably changed from time to time. The Operations Manuals shall remain confidential and Franchisor's exclusive property, the contents of which are protected by the copyright law of the United States. Franchisee shall not disclose, duplicate or make any unauthorized use of any portion of the Operations Manuals to any person or entity not affiliated with Franchisor, and shall not duplicate, copy, reproduce or alter the Operations Manuals in any way. A violation of Franchisor's copyright will be punishable to the maximum extent permitted by law. The provisions of the Operations Manuals constitute provisions of this Agreement as if fully set forth herein. Franchisee shall ensure that Franchisee's copy of the Operations Manuals is current and up to date. Franchisor reserves the right to post updates or revised versions of the Operations Manuals on its secure intranet, accessible only to Franchisor and its franchisees, and to require Franchisee to download such updated versions. If Franchisee requests a copy in an alternate format or a replacement hard copy of the Operations Manuals, Franchisor will provide an alternate or

replacement copy for Franchisor's then-current fee. If there is a dispute relating to the contents of the Operations Manuals, the master copy which Franchisor maintains at Franchisor's corporate headquarters will control.

**6.2 Start-up and Ongoing Inventory and Supplies.** Franchisor will provide specifications for and designate sources of supply from which Franchisee agrees to purchase inventory, goods and supplies necessary for the start-up and ongoing operations of the Restaurant.

**6.3 Franchise Orientation Seminar.** Franchisor or its designee will conduct a mandatory orientation at its headquarters or via webinar for Franchisee within 30 days after the signing this Agreement, or at a time designated by Franchisor. All expenses incurred by Franchisee and its personnel in attending the Franchise Orientation Seminar, including, without limitation, the travel, lodging and meal expenses of Franchisee's personnel, and the salaries of Franchisee's personnel, shall be the sole responsibility of Franchisee. General information regarding the franchise program will be discussed, as well as site selection and store buildout criteria and training. If Franchisee fails to attend the Franchise Orientation Seminar, Franchisee must attend the Franchise Orientation Seminar at a time as prescribed by Franchisor.

**6.4 Prototype Design Package; Plans and Specifications for Prototypical Layout and Design.** Franchisor's Prototype Design Package ("PDP") will be provided to Franchisee at no cost before or at the time of lease signing, and only after Franchisor has accepted Franchisee's location, specifying Franchisor's specifications and requirements for the fixtures, decor, electronic cash register, equipment and signs required for the opening of the Restaurant, as well as plans and specifications for the layout and design of a prototypical Zoup! restaurant for use by Franchisor's preferred architect or Franchisee's local architect, identified and engaged by Franchisee, to prepare site specific, scaled architectural mechanical, electrical and plumbing drawings necessary to: (i) obtain building permits from local authorities; (ii) obtain landlord approval; and (iii) assist with identifying a qualified general contractor for the construction and/or buildout of the Restaurant. As detailed in Section 7.5 of this Agreement, Franchisee is solely responsible for the preparation of architectural and working drawings necessary to complete construction and/or buildout at the Accepted Location which conform to Franchisor's standards and specifications.

**6.5 Grand Opening Advertising.** Franchisee must conduct an opening advertising program for the Restaurant prior to and immediately upon the opening of the Restaurant ("Grand Opening Advertising Program"). Franchisee must spend at least \$15,000 for the Grand Opening Advertising Program and provide proof of such expenditures before Franchisor approves the Restaurant to open. The Grand Opening Advertising Program must be approved by Franchisor, and Franchisee must use the media and advertising formats designated by Franchisor. If Franchisee fails to conduct the Grand Opening Advertising Program as required by Franchisor, Franchisor reserves the right to either (i) withhold approval for Franchisee to open the Restaurant or (ii) deduct any amount not spent by Franchisee on the Grand Opening Advertising Program up to \$15,000 via EFT and contribute this amount to the Brand Development Fund. If Franchisee fails to conduct the Grand Opening Advertising Program as required by Franchisor, Franchisor may, at its sole discretion, elect to terminate the Franchisee.

**6.6 Store Opening Assistance.** Prior to the day the Restaurant first begins operations, Franchisor shall assist Franchisee in conducting required training at the Restaurant. Franchisee shall cooperate fully with Franchisor in conducting such training, as described in the Operations Manuals or otherwise in writing by Franchisor. Franchisor will send one of its representatives to assist with the Restaurant's operation during the initial opening period. Franchisor will provide up to 5 days of on-site assistance if the Restaurant is Franchisee's first Zoup! restaurant or if Franchisee purchased an existing Restaurant from another franchisee, up to 3 days of on-site assistance if the Restaurant is Franchisee's second Zoup! restaurant and up to 1 day of on-site assistance if the

Restaurant is Franchisee's third or subsequent Zoup! restaurant. During this period, such representative will assist Franchisee in establishing and standardizing procedures and techniques essential to the operation of the Restaurant. Should Franchisee request additional assistance from Franchisor during the opening, and should Franchisor, in its discretion, deem it necessary, feasible and appropriate to comply with the request, Franchisee shall reimburse Franchisor for Franchisor's expenses in providing such additional assistance at Franchisor's then-current rate.

6.7 **Ongoing Assistance.** Franchisor will provide Franchisee continuing consultation and advice as Franchisor deems necessary and appropriate regarding the management and operation of the Restaurant. Franchisor will provide such assistance, in Franchisor's discretion, by telephone, facsimile, intranet communication and on-site visits.

6.8 **Toll Free Telephone Number.** Franchisor has the right, but not the obligation, to establish and maintain a toll-free telephone number for the purpose of accepting and confirming customer orders nationwide, customer service, and customer follow-up and satisfaction surveys. If Franchisor establishes a toll-free number, Franchisee must comply with Franchisor's procedures for implementing the nationwide service as Franchisor specifies in the Operations Manuals or otherwise in writing, and Franchisee may be required to pay a fee related to the establishment, operation and maintenance of the toll free telephone number.

6.9 **Annual Convention.** Franchisor may, in Franchisor's discretion, hold an Annual Convention at a location to be selected by Franchisor. Franchisor shall determine the topics and agenda for the Annual Convention to serve the purpose among other things, of updating franchisees on new developments affecting franchisees, exchanging information between franchisees and Franchisor's personnel regarding restaurant operations and programs, and recognizing franchisees for their achievements. Franchisee is required to attend the Annual Convention and to pay Franchisor's then-current registration fee. All expenses, including Franchisee's and its attendees' transportation to and from the Annual Convention, and its and their lodging, meals and salaries during the Annual Convention, are Franchisee's sole responsibility. Franchisor or its designee may use expenditures from the Brand Development Fund for purposes related to the Annual Convention, including costs related to production, programs, and materials. Franchisee's failure to attend any Annual Convention will result in the payment of a \$1,000 penalty fee to Franchisor by electronic funds transfer.

## 7. FRANCHISEE'S OBLIGATIONS

7.1 **Restaurant Location and Lease Approval.** Franchisee must secure real estate, by purchase or lease, for the operation of the Restaurant. Franchisor's approval of the Lease shall be conditioned upon Franchisee and Franchisee's landlord's execution of a Lease Option Agreement described in Section 7.3, as well as the inclusion in the Lease of terms acceptable to Franchisor. In the event that Franchisee signs a Lease where Franchisor serves as a prime tenant, co-tenant or guarantor, Franchisor reserves the right to charge a Guaranty Fee of 0.5% of Net Sales. The Guaranty Fee shall be payable at the same time and in the same manner as Royalties for so long as Franchisor is a prime tenant, co-tenant or guarantor of Franchisee's Lease. At Franchisor's option, any lease for the Restaurant ("the Lease") will be required to contain certain provisions, including, but not limited to:

7.1.1 A provision expressly prohibiting Franchisee from subleasing or assigning all or any part of its occupancy rights, or extending the term of or renewing the Lease without Franchisor's prior written consent;

7.1.2 A provision which expressly requires the lessor to provide Franchisor all sales and other information lessor may have related to the operation of the Restaurant, as Franchisor may request;

7.1.3 A provision which requires the lessor to concurrently provide Franchisor with a copy of any written notice of default under the Lease sent to Franchisee and which grants to Franchisor, in its sole discretion, the right (but not the obligation) to enter the premises to make modifications necessary, in Franchisor's sole discretion, to protect the Proprietary Marks or the System or to cure any default: (i) under the Lease within 15 business days after the expiration of the period in which Franchisee had to cure any such default should Franchisee fail to do so; or (ii) under this Agreement;

7.1.4 A provision which evidences the right of Franchisee to display the Proprietary Marks and signage in accordance with the specifications required by the Operations Manuals, subject only to the provisions of applicable law;

7.1.5 A provision that the premises be used solely for the operation of the Restaurant;

7.1.6 A provision which expressly states that any default under the Lease shall constitute a default under this Agreement, and any default under this Agreement shall constitute a default under the Lease; and

7.1.7 A provision specifically approving Franchisor's signage specifications.

7.2 **Site Selection Addendum.** The parties shall enter into the Site Selection Addendum attached as Attachment 1 to this Agreement, the terms of which shall govern the parties' site selection obligations, unless Franchisor has previously accepted a site submitted by Franchisee. Franchisee is encouraged to use the services of a reputable broker in Franchisee's search area. Franchisee or Franchisee's broker must present sites to Franchisor for evaluation. Franchisor or Franchisee's broker may assist in the negotiations of the rental terms of site that is accepted by Franchisor. The term of the Lease, including any options, for the Accepted Location must be equal to or greater than the term of the Franchise. Franchisor has the right to review, evaluate and approve the Lease prior to execution. Neither Franchisor's review of the Lease nor Franchisor's acceptance of the site Franchisee has selected constitutes a representation or guarantee that Franchisee will succeed at the selected Accepted Location or an expression of Franchisor's opinion regarding the terms of the Lease. Franchisor encourages Franchisee to seek independent counsel from a lawyer or business adviser to assist Franchisee in selecting the site and negotiating the Lease.

7.3 **Lease Option Agreement.** Franchisor may condition Franchisor's approval of any proposed Lease on, among other things, Franchisee and Franchisee's landlord's execution of a Lease Option Agreement (attached as Attachment 3 to this Agreement) which: (i) grants Franchisor or its affiliate the right, but not the obligation, to assume the Lease upon (a) Franchisee's default on the Lease, or (b) termination, transfer or expiration of the Franchise, and (ii) authorizes and requires Franchisee's landlord to disclose to Franchisor, upon Franchisor's request, sales and other information Franchisee has furnished to the landlord. Franchisee must deliver an executed copy of the Lease and the Lease Option Agreement to Franchisor within 10 days after execution of the Lease.

7.4 **Post Location Approval.** After obtaining possession of the Accepted Location, Franchisee shall, at Franchisee's expense, promptly:



7.4.1 obtain all required zoning changes, building, utility, health, sanitation and sign permits and licenses, and any other required permits and licenses;

7.4.2 purchase or lease equipment, fixtures, furniture and signs as provided herein;

7.4.3 complete the construction and/or remodeling, equipment, fixtures, furniture and sign installation and decorating of the Restaurant in full and strict compliance with plans and specifications approved by Franchisor, and all applicable ordinances, building codes, permit requirements and the Americans with Disabilities Act;

7.4.4 obtain all customary contractors' sworn statements and partial and final waivers of lien for construction, remodeling, decorating and installation services; and

7.4.5 otherwise complete development of and have the Restaurant ready to open and commence the conduct of its business in accordance with Section 7.7 of this Agreement, or within 120 days after receiving possession of the Accepted Location, whichever is earlier.

**7.5 Restaurant Appearance and Construction.** The Restaurant shall conform to Franchisor's standards and specifications for appearance, layout and design. Franchisee is solely responsible for the preparation of complete architectural and working drawings necessary to complete construction and/or buildout at the Accepted Location (the "Plans"). Franchisee must provide Franchisor with the Plans for Franchisor's review and approval, and unless Franchisee uses Franchisor's preferred architect, Franchisee must pay Franchisor an architectural plan review fee of \$1,000 when Franchisee requests the PDP. Franchisor, or a third-party vendor of Franchisor's choosing, will review the Plans before or at the time of Lease signing, after Franchisor has accepted Franchisee's location, to ensure compliance with the PDP. Franchisor must approve the Plans before Franchisee begins construction/ buildout. Franchisor must approve subsequent material changes to the Plans before such changes may be implemented. Franchisee must select a qualified general contractor with the assistance of its local architect, to construct and/or buildout the Restaurant. Franchisee's qualified, licensed contractor must construct Franchisee's Restaurant in conformance with Franchisor's PDP and the Plans provided by Franchisee's local architect. Franchisor requires periodic updates from Franchisee's general contractor to ensure compliance. Franchisor's final approval is required to open the Restaurant. Franchisee must use its own non-borrowed funds to cover at least 20% of the total project cost associated with the development and opening of the Restaurant.

**7.6 Training.** Franchisee (or Franchisee's principal, as applicable) and Franchisee's Manager must attend and successfully complete Franchisor's initial training program as set forth in Section 8.

**7.7 Opening Requirements.** Franchisee must commence operation of the Restaurant within 12 months after signing this Agreement (the "Required Opening Date"). Franchisee may not open the Restaurant unless Franchisee receives Franchisor's prior written approval.

**7.8 Purchasing Requirements.**

**7.8.1 Compliance with Standards and Specifications.** Franchisee acknowledges and agrees that Franchisee's obligations set forth in this Agreement and the Operations Manuals are necessary for the operation of the Restaurant and to maintain uniformity throughout the System. Franchisee shall adhere to the standards and specifications set forth in this Agreement and the Operations Manuals and any revisions or amendments to them. Franchisee shall use signs, furnishings, supplies, fixtures, equipment and inventory which comply with Franchisor's then-current standards and specifications (including, without limitation, standards and

specifications for products, services, equipment, furnishings, audio and video materials, fixtures and signage) which Franchisor establishes from time to time. Franchisor has the right to change Franchisor's standards and specifications in Franchisor's sole discretion. Franchisee acknowledges that Franchisee may incur an increased cost to comply with such changes at Franchisee's expense. Franchisor may, in Franchisor's sole discretion, waive or modify any obligation of other System franchisees under any agreement and no such waiver or modification shall obligate Franchisor to grant a similar waiver or modification to Franchisee.

7.8.2 Designated and Approved Suppliers. Recognizing that preservation of the System depends upon product and service uniformity and the maintenance of Franchisor's trade dress, Franchisee agrees to purchase certain signs, furnishings, supplies, fixtures, equipment, inventory and other items, and certain services from Franchisor or from approved or designated third-party suppliers as Franchisor shall specify, from time to time, in the Operations Manuals and otherwise in writing. Franchisee hereby acknowledges that Franchisor, Franchisor's affiliate and/or a third-party may be one of several, or the only, approved supplier of any item or service. Franchisee further acknowledges and agrees that Franchisor and/or Franchisor's affiliates may and have the right to realize a profit on any item or service that Franchisor, Franchisor's affiliate or an approved supplier supplies to Franchisee.

7.8.3 Supplier Approval. In the event Franchisee wishes to purchase any unapproved item or service and/or to acquire an approved item or service from an unapproved supplier (other than the Proprietary Food Products and Proprietary Trademarked Products), Franchisee must provide Franchisor the name, address and telephone number of the proposed supplier, a description of the item or service Franchisee wishes to purchase, and purchase price of the item or service, if known. At Franchisor's request, Franchisee must provide Franchisor, for testing purposes, a sample of the item or service that Franchisee wishes to purchase. Franchisee's request must be submitted along with a check in the amount of \$500 to cover Franchisor's costs with such examination and/or testing. If Franchisor incurs any costs above \$500 in connection with testing a particular item or service or evaluating an unapproved supplier, at Franchisee's request, Franchisee or the supplier must reimburse Franchisor for Franchisor's reasonable testing costs, regardless of whether Franchisor subsequently approves the item, service or supplier. Nothing in the foregoing shall be construed to require Franchisor to approve any particular supplier. Franchisor may base Franchisor's approval of any such proposed item or supplier on considerations relating not only directly to the item or supplier itself, but also indirectly to the uniformity, efficiency, and quality of operation Franchisor deems necessary or desirable in Franchisor's System as a whole. Franchisor has the right to receive payments from suppliers on account of their dealings with Franchisee and other franchisees and to use all amounts Franchisor receives without restriction (unless instructed otherwise by the supplier) for any purposes Franchisor deems appropriate. Nothing herein shall require Franchisor to approve an unreasonable number of suppliers for a given item or service, which approval might, in Franchisor's reasonable judgment, result in higher costs or prevent the effective or economical supervision of approved suppliers. Franchisor may revoke Franchisor's approval of particular items, services or suppliers when Franchisor determines, in Franchisor's sole discretion, that such items, services or suppliers no longer meet Franchisor's standards. Upon receipt of written notice of such revocation, Franchisee must cease purchasing items or services, or from such suppliers. Franchisee must use items and services purchased from approved suppliers solely in connection with the operation of the Restaurant and not for any competitive business purpose.

7.8.4 System Suppliers. Franchisor may establish business relationships, from time to time, with suppliers who may produce, among other things, certain furnishings, supplies, fixtures, equipment, inventory, and other items, and certain services, according to Franchisor's standards and specifications, or private label goods which Franchisor has authorized

and prescribed for sale by System franchisees (“System Suppliers”). Franchisee recognizes that such items and services are essential to the operation of the Restaurant and to the System generally. Franchisee further recognizes that Franchisee’s failure to pay System Suppliers may interfere with such suppliers’ willingness to supply the System which may result in other System franchisees’ inability to obtain items or services or ability to obtain items or services only on less favorable credit terms. Accordingly, Franchisee agrees to pay System Suppliers as and when due.

**7.9 Authorized Services and Products.** Franchisee shall offer for sale all services and products which Franchisor prescribes and only those services and products which Franchisor prescribes. Franchisee may not offer any other services or products for sale, rent or lease without having received Franchisor’s prior written authorization. Franchisee shall at all times maintain a sufficient inventory of ingredients, food and beverage products, supplies and other products of the type, quantity and quality specified in the Operations Manuals, to adequately satisfy consumer demand. Franchisee must offer and sell all private label products which Franchisor designates for sale by System franchisees. Such items may include, without limitation, proprietary food, dessert and beverage items.

**7.10 Operations.**

**7.10.1** Franchisee must operate the Restaurant for at least those months, days and hours that Franchisor specifies in the Operations Manuals or otherwise in writing.

**7.10.2** Franchisee must maintain the Restaurant in a clean, safe and attractive manner, and in accordance with all applicable requirements of law, including all federal, state and local health laws or regulations, and the Operations Manuals. Franchisee and its personnel must give prompt, courteous and efficient service to the public and otherwise operate the Restaurant so as to preserve, maintain and enhance the reputation and goodwill of the System.

**7.10.3** In order to ensure that all food items prepared by Franchisee meet Franchisor’s high standards of taste, texture, appearance and freshness, and in order to protect Franchisor’s goodwill, Proprietary Marks, Proprietary Recipes and Proprietary Food Products and Proprietary Trademarked Products, all food items and products shall be prepared only by properly trained personnel strictly in accordance with Franchisor’s recipes, preparation techniques and processes, and the Operations Manuals, and shall be sold only at retail to customers in conformity with Franchisor’s marketing plan and concept. Franchisee acknowledges that such recipes, preparation techniques and processes are integral to the System and failure to strictly adhere to such recipes, preparation techniques and processes (including the handling and storage of both ingredients and fully prepared food items) shall be detrimental to the System and Proprietary Marks and shall constitute a default of this Agreement.

**7.10.4** Franchisee shall maintain a sufficient number of qualified, trained and competent personnel to offer prompt, courteous and efficient service to the public, and otherwise to operate the Restaurant in compliance with the System, so as to preserve, maintain and enhance the reputation and goodwill of the System. All personnel engaged in the operation of the Restaurant shall dress in conformance with Franchisor’s standards, shall present a neat and clean appearance (wearing Franchisor’s required uniforms) in conformance with Franchisor’s reasonable standards, and shall render competent, efficient service to customers of the Restaurant.

**7.10.5** Franchisee agrees to operate the Restaurant in accordance with the Operations Manuals. Franchisee shall train and supervise its personnel, initially and on a continuing basis, in accordance with the Operations Manuals. The Operations Manuals shall set forth the practices, procedures and methods to be utilized in the Restaurant, and Franchisor may require Franchisee to conform Franchisee’s practices with national programs, including but not limited to

Franchisor's gift card and loyalty card programs, which Franchisor has designed and promulgated as part of the System.

7.10.6 Franchisee (or at least one of Franchisee's principals if Franchisee is a corporation, company or partnership) must devote personal full-time attention and best efforts to the management and operation of the Restaurant. Franchisee may, however, delegate the day-to-day supervision of the operation of the Restaurant to a manager (the "Manager"). The Manager must successfully complete Franchisor's initial training program before assuming any managerial responsibility. The Restaurant must, at all times, be staffed with a Manager who has successfully completed Franchisor's initial training program as set forth in Section 8. The Manager must have full authority to act on Franchisee's behalf in Franchisee's dealings with Franchisor. In the event that Franchisee operates more than one Zoup! restaurant, Franchisee shall have a properly trained Manager at each location. Franchisee shall keep Franchisor informed at all times of the identity of any person acting as the Manager of the Restaurant. The Manager shall devote full time and best efforts to the day-to-day supervision of the operation of the Restaurant. In the event that a Manager resigns or is otherwise terminated from the Restaurant, Franchisee shall hire a replacement Manager who meets Franchisor's then-current standards for Managers within 30 days after resignation or termination of the prior Manager. The new Manager must complete initial training to Franchisor's satisfaction within 60 days after hiring, subject to the availability of Franchisor's training personnel.

7.10.7 Franchisee must at all times maintain such working capital as may be reasonably necessary to enable Franchisee to properly and fully carry out and perform all of Franchisee's duties, obligations and responsibilities hereunder and to operate the Restaurant in a businesslike, proper and efficient manner.

7.10.8 Franchisee must at all times maintain sufficient levels of inventory to adequately meet consumer demand.

7.11 **Site Inspection.** Franchisee agrees, that in order to maintain the high quality and uniform standards associated with the System and to protect its goodwill and reputation, to permit Franchisor during business hours, to inspect the Restaurant, confer with Franchisee and Franchisee's personnel and customers, check inventories, monitor procedures and perform any other inspection which Franchisor deems necessary to protect the standards of quality and uniformity of the System and Franchisee's performance under this Agreement. Any feedback, coaching or recommendations given by Franchisor to any personnel of the Restaurant during any inspection will be informational and non-mandatory. Franchisee is obligated to make changes to Franchisee's operations based upon any inspections by Franchisor and to immediately remove any item which does not conform to Franchisor's specifications and/or standards. Franchisor may, at Franchisee's expense, remove or destroy any item which does not conform to Franchisor's standards and/or specifications. If Franchisor determines that any condition in the Restaurant presents a threat to customers or public health or safety, Franchisor may take whatever measures Franchisor deems necessary, including requiring Franchisee to immediately close the Restaurant until the situation is remedied to Franchisor's reasonable satisfaction. Franchisor's inspections and evaluations may include a "mystery shopper" program or a third-party food safety and operational assessment from time to time. If Franchisee fails any inspection or evaluation, Franchisee must pay the costs and expenses of subsequent "mystery shopper" or food safety and operational assessment visits.

7.12 **Computer Software and Hardware.** Franchisee shall purchase and use any and all computer software programs ("Software") which Franchisor has developed or may develop and/or designate for use for the System, and shall purchase such computer hardware as may be necessary for the efficient operation of the Software, including without limitation, a point-of-sale

electronic cash register system and credit card machine. Franchisor has the right to require Franchisee to update or upgrade computer hardware components and/or Software as Franchisor deems necessary from time to time but not more than one time per calendar year. In addition, Franchisor has the right to require Franchisee to enter into a separate maintenance agreement for such computer hardware and/or Software. Franchisor reserves the right to require Franchisee to install a “systems backup solution” which backs up critical data in Franchisee’s computer system using an off-premises storage scheme. Franchisee shall not install any other software onto the computer hardware without Franchisor’s prior written consent. Notwithstanding the fact that Franchisee must buy, use and maintain the computer hardware and Software under Franchisor’s standards and specifications, Franchisee will have the sole and complete responsibility for: (i) the acquisition, operation, maintenance and upgrading of the computer hardware and Software; and (ii) any and all consequences that may arise if the computer hardware and Software is not properly operated, maintained and upgraded, including but not limited to PCI compliance for the handling of customer’s personal information. To the extent that the Software supports modules for personnel-related functions, such as employee timekeeping, employee scheduling or payroll processing, Franchisee shall have the option to use those modules, to use alternate software to handle those functions, or to handle those functions in any other manner that Franchisee chooses.

7.12.1 If and at such time Franchisor develops and custom designs a software program for conducting accounting, inventory and point-of-sale functions and related activities (“Proprietary Software Program”) or engages a third-party to perform such services (“Third-Party Software Program”), Franchisee, at Franchisee’s own expense, agrees to obtain the computer hardware required to implement the Proprietary Software Program or the Third-Party Software Program into the Restaurant, and to comply with all standards and specifications prescribed by Franchisor regarding the Proprietary Software Program or the Third-Party Software Program as provided from time to time in the Operations Manuals. The Proprietary Software Program will be deemed Confidential Information. It is possible that Franchisor might not be able to alter the Proprietary Software Program to accommodate each and every franchisee of the System, and therefore, at such time that Franchisor requires the implementation of such Proprietary Software Program, Franchisee shall only utilize the Proprietary Software Program as prescribed by Franchisor. To the extent that the Proprietary Software Program or the Third-Party Software Program supports modules for personnel-related functions, such as employee timekeeping, employee scheduling or payroll processing, Franchisee shall have the option to use those modules, to use alternate software to handle those functions, or to handle those functions in any other manner that Franchisee chooses. Franchisor reserves the right to require Franchisee to download Proprietary Software Program or Third-Party Software Program upgrades from Franchisor’s intranet system or from such third-party, as Franchisor deems necessary. Franchisor also reserves the right to require Franchisee to utilize Franchisor’s private and secured computer communications network utilizing broadband Internet Protocol (IP) based technologies. At such time when the network is deployed, Franchisee will be required to install the necessary hardware and/or software to connect to the private network at Franchisee’s sole expense.

7.12.2 Franchisee is required to maintain broadband internet access and an email address for purposes of communicating with Franchisor. If broadband internet access is unavailable to Franchisee, Franchisee shall provide alternate internet access acceptable to Franchisor. Franchisor reserves the right to create, at its sole discretion, a proprietary email service to facilitate communications with System franchisees. At such time, Franchisee will be required to utilize such email service in the manner Franchisor prescribed in the Operations Manuals or otherwise in writing at Franchisee’s sole expense.

7.12.3 Franchisee agrees not to tamper or alter any system-wide computer network, intranet system, extranet system, hardware, Software or Proprietary Software Program

without the prior written authorization of Franchisor. In addition to Franchisor's right to terminate the Franchise pursuant to Section 15.2.16, Franchisee agrees to indemnify Franchisor from all costs incurred as a result of Franchisee's tampering or altering any system-wide computer network, intranet system, extranet system, hardware, Software or Proprietary Software Program, regardless if Franchisee receives prior approval from Franchisor.

**7.13 System-Wide Computer Network, Private Internet System or Extranet Participation.** Franchisee is required to participate in any system-wide computer network, private internet system or extranet system that Franchisor implements and may be required by Franchisor to use such system-wide computer network, private internet system or extranet system to, among other things: (i) submit Franchisee's reports due under this Agreement to Franchisor on-line; (ii) participate in gift card and loyalty card programs; (iii) participate in on-line food ordering through our third-party vendor; (iv) view and print portions of the Operations Manuals; (v) download approved local advertising materials; (vi) communicate with Franchisor and other System franchisees; and (vii) receive training materials. Franchisee will be required to install the necessary computer hardware and/or software to utilize any system that Franchisor implements. Franchisee may be required to upgrade or update Franchisee's network connection upon Franchisor's request, no more frequently than annually, without any limitation to cost. Franchisee agrees to use any such system-wide computer network, private internet system or extranet system in strict compliance with the standards, protocols and restrictions that Franchisor included in the Operations Manuals, including those related to the encryption of confidential information and prohibitions against the transmission of libelous, derogatory or defamatory statements. Franchisee is not authorized to share Franchisee's password to the private internet site, nor is Franchisee authorized to share any of the content of the site, with anyone else.

**7.14 Internet Website.** In accordance with Section 12.5 hereof, Franchisee shall not establish or maintain a website, or otherwise maintain a presence or advertise on the internet or any other public computer network, in connection with the Restaurant.

**7.15 Personal Conduct.** Franchisee agrees to refrain from committing any act or pursuing any course of conduct that tends to bring the Proprietary Marks into disrepute.

**7.16 Best Efforts.** Franchisee must use best efforts to promote and increase the demand for the goods and services of the Restaurant. All of Franchisee's advertising and promotion shall be completely factual and shall conform to the highest standards of ethical advertising. Franchisee agrees to refrain from any business or advertising practice which may be injurious to the Restaurant, other restaurants within the Zoup! system, or the goodwill associated with the Proprietary Marks and System.

**7.17 Telephone.** Franchisee must obtain a new telephone number and telephone listing at Franchisee's expense, to be listed under the "Zoup!" name and not under Franchisee's corporate, partnership, or individual name, to be used exclusively in connection with Franchisee's operation of the Restaurant. Upon the expiration, transfer or termination of the Franchise for any reason, Franchisee shall terminate Franchisee's use of such telephone number and listing and assign same to Franchisor or Franchisor's designee. Franchisee must answer the telephone in the manner Franchisor specifies in the Operations Manuals.

**7.18 Payment of Debts.** Franchisee is solely responsible for selecting, retaining and paying Franchisee's personnel; paying all invoices for the purchase of goods for use in the Restaurant; and determining whether, and on what terms, to obtain any financing or credit which Franchisee deems advisable or necessary for the conduct of the Restaurant. Franchisee agrees to pay all current obligations and liabilities to suppliers, lessors and creditors on a timely basis. Franchisee agrees to indemnify Franchisor in the event that Franchisor is held responsible for debts

owed by Franchisee if Franchisor elects to pay any of Franchisee's obligations in order to preserve the relationship between System Suppliers and System franchisees. Franchisee agrees to make prompt payment of all federal, state and local taxes, including individual and corporate taxes, sales and use taxes, franchise taxes, gross receipts taxes, employee withholding taxes, FICA taxes, personal property and real estate taxes arising from Franchisee's operation of the Restaurant. Franchisee agrees to indemnify Franchisor in the event that Franchisor is held responsible for these taxes.

**7.19 Compliance with Applicable Laws.** Franchisee must comply with all applicable federal, state and local laws, ordinances and regulations regarding the construction and operation of the Restaurant, including federal laws such as the Fair Labor Standards Act, National Labor Relations Act and Americans with Disabilities Act; and laws, ordinances and regulations governing matters such as occupational hazards and health, the preparation and dispensing of food products, menu labeling, zoning, construction, business licensing, health and safety, minimum wages, overtime, working conditions, workers' compensation insurance, unemployment insurance, consumer protection, trade regulation, environmental protection, and the withholding and payment of income, social security, sales, use and property taxes.

**7.20 Confidential Information.** Franchisee must maintain the confidentiality of all Confidential Information as set forth in Section 5 of this Agreement.

**7.21 Image.** Franchisee acknowledges that Franchisor has developed the System to offer and sell services and products which will distinguish the Restaurant as a restaurant of distinction and from restaurants and chains which offer similar services and products valued at different prices and with less attention paid to quality and customer service. Franchisee agrees to offer services and products and to operate the Restaurant in such a manner that will serve to emulate and enhance the image Franchisor intended for the System. Franchisee further acknowledges and agrees that each aspect of the System is important not only to Franchisee but also to Franchisor and to other System franchisees in order to maintain the highest operating standards, achieve system-wide uniformity and increase the demand for the products sold and services rendered by System franchisees. Franchisee agrees to comply with the standards and specifications Franchisor sets forth in order to uniformly convey the distinctive image of a Zoup! restaurant. Franchisee shall, in the operation of the Restaurant, use only displays, trays, boxes, bags, containers, labels, forms and other paper and plastic products imprinted with the Proprietary Marks and colors as prescribed from time to time by Franchisor.

**7.22 Pending Actions.** Franchisee shall notify Franchisor, in writing, within 5 days after the commencement of any action, suit or proceeding and the issuance of any order, suit or proceeding of any court, agency or other government instrumentality, including the receipt of any notice or citation, which may adversely affect the operation or financial condition of Franchisee, the Restaurant or the System.

**7.23 Standard Maintenance.** Franchisee agrees to repair, refinish, repaint, replace, and/or otherwise redo the Restaurant's signs, furnishings, fixtures, equipment, and any other tangible part or property of the Restaurant at Franchisee's sole expense at such times as Franchisor may reasonably direct. Franchisee agrees that Franchisor has the right to direct Franchisee to remodel, re-equip, and otherwise refurbish the Restaurant premises in the manner necessary to bring it into conformance with other Zoup! restaurants of the type Franchisor and Franchisor's franchisees are opening at the time of such direction.

**7.24 Credit Reports and Lien Searches.** During the term of the Franchise, and any renewal term, Franchisor may, in its sole and absolute discretion, perform or obtain credit reports, lien searches or other background searches on Franchisee or Franchisee's principals that Franchisor

shall deem appropriate. Franchisee hereby consents to Franchisor performing or obtaining credit reports, lien searches or other background searches and shall cooperate with Franchisor in conducting or obtaining any credit report, lien search or background checks. Franchisor will provide Franchisee with a copy of any report upon Franchisee's written request.

**7.25 Customer Dispute Resolution.** Franchisee acknowledges Franchisor's philosophy that exceeding customers' expectations is essential to Franchisee's success as well as the reputation and success of the System and other Zoup! franchisees. Accordingly, Franchisee agrees to: (i) use its best efforts to ensure the complete satisfaction of each of Franchisee's customers; (ii) respond to customer complaints in a courteous, prompt, and professional manner; (iii) use its best efforts to promptly and fairly resolve customer disputes; and (iv) within twenty-four (24) hours of receiving a request from Franchisor, provide Franchisor a written summary of the dispute. If Franchisee fails to resolve a dispute with a customer to Franchisor's standards, Franchisor, in its sole discretion and for the sole purpose of protecting the goodwill and reputation of the System and the Marks, may (but shall not be obligated to) investigate the matter and take such action as Franchisor may deem necessary or appropriate to resolve the dispute fairly and promptly, including, but not limited to, the issuance of a refund on Franchisee's behalf. Within ten (10) days after receiving notice thereof, Franchisee shall pay to Franchisor a Guest Complaint Resolution Fee, in the amount set forth in the Operations Manual, as well any amounts refunded to a customer on Franchisee's behalf. **Franchisee hereby authorizes Franchisor to take payment of the Guest Complaint Resolution Fee and any refunded amounts, at Franchisor's option, through electronic funds transfer or ACH payment.** Nothing contained in this Section or any other provision of this Agreement shall be construed to impose liability upon Franchisor to any third party for any action by or obligation of Franchisee.

**7.26 Critical Operations Standards.** Franchisor has established certain critical operations standards, as set forth in the Operations Manual. Franchisee acknowledges that any deviation from a critical operations standard constitutes a violation of this Agreement and will require Franchisor to incur incalculable administrative and management costs to address such violation. Accordingly, Franchisee agrees that, to compensate Franchisor for its incalculable administrative and management costs due to Franchisee's critical operations standard violation, Franchisee shall pay Franchisor a Critical Operations Standard Violation Fee, as set forth in the Operations Manual, for each violation of a critical operations standard. **Franchisee hereby authorizes Franchisor to take payment of the Critical Operations Standard Violation Fee, at Franchisor's option, through electronic funds transfer or ACH payment.** Franchisor need not give Franchisee a cure opportunity before charging the Critical Operations Standard Violation Fee, and Franchisor's imposition of a Critical Operations Standard Violation Fee does not preclude Franchisor from seeking injunctive relief to restrain any subsequent or continuing violation, formally defaulting and terminating this Agreement or exercising any of Franchisor's rights under this Agreement.

## **8. TRAINING**

**8.1 Initial Training Program.** Prior to commencement of operations of the Restaurant, Franchisor shall make initial training available to Franchisee and up to 3 of Franchisee's management personnel free of charge, provided that Franchisee and such management personnel attend the initial training program simultaneously. If Franchisee is a partnership, corporation or limited liability company, at least 1 of the trainees must be Franchisee's general partner, principal shareholder, or manager as appropriate. The required training lasts about 4 weeks and consists of



classroom and practical experience, including training in financial controls and general bookkeeping procedures, food preparation service and operational techniques, marketing and advertising techniques, sanitation and maintenance procedures, and maintenance of quality standards. A 2-day sanitation certification course, prepared by the National Restaurant Association, and presented by Franchisor's training department, must be successfully completed by Franchisee and at least 1 of Franchisee's management personnel. All training shall be held at a site designated by Franchisor. All training-related expenses, including Franchisee's and its trainees' transportation to and from the training site, and lodging, meals, uniforms and salaries during training, are Franchisee's sole responsibility. Franchisee and its management personnel shall attend and complete Franchisor's initial training program to Franchisor's satisfaction at least 15 days prior to the opening of the Restaurant.

8.2 Should Franchisee desire training for additional personnel, or should Franchisee or Franchisee's management personnel fail to complete the initial training program to Franchisor's satisfaction, the respective person(s) may attend or repeat the course, or in the case of a management personnel, Franchisee may send a replacement (the "Replacement Personnel") to the next available initial training program at a site designated by Franchisor for Franchisor's then-current training fee as published in the Operations Manuals or otherwise designated in writing. Failure by Franchisee, management personnel or any Replacement Personnel to complete the initial training program to Franchisor's satisfaction is a cause for termination of the Franchise. Franchisor will provide Franchisee with training materials for Franchisee to use in training Franchisee's personnel. Only Franchisor's provided training materials may be used by Franchisee in training Franchisee's personnel. Updated training materials will be provided to Franchisee by Franchisor as they are developed. All training materials provided to Franchisee by Franchisor shall at all times remain Franchisor's property, and Franchisee agrees not to challenge Franchisor's or Franchisor's affiliates' title or rights in or to the training materials. Franchisee may not make any disclosure, duplication or other unauthorized use of any portion of the training materials.

8.3 Franchisor from time to time may provide refresher training programs or seminars, and if it does, may require that previously-trained and experienced franchisees, their managers and/or management personnel attend and successfully complete such refresher training programs or seminars, to be conducted at Franchisor's headquarters or at such other place as Franchisor shall designate. Attendance at such refresher training programs or seminars shall be at Franchisee's sole expense, provided, however, that attendance shall not be required at more than 4 such programs in any calendar year, which shall not collectively exceed 8 business days in duration during any calendar year.

8.4 Franchisee will pay Franchisor, by electronic funds transfer, a cancellation fee of \$400 per person for any cancellation or failure to attend any previously agreed-upon training program session.

## **9. INSURANCE**

Franchisee agrees to procure and maintain public liability insurance, property damage insurance and workers' compensation insurance as required by Franchisor, and any insurance required by law, covering the operation and location of the Restaurant, from insurance carriers reasonably acceptable to Franchisor. Currently, Franchisee must maintain liability Insurance which includes General Liability Coverage in a minimum amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate limit. General Liability coverage must include Hired and Non-Owned Auto Coverage in a minimum limit of \$1,000,000. If Franchisee has a delivery vehicle, Franchisee must purchase commercial auto insurance for Franchisee's company vehicles. Insurance carriers must be approved by Franchisor in advance and in writing. All insurance policies shall be issued by insurance companies with a financial rating of at least "A" status or better as rated in the most recent edition

of AM Best's Insurance Reports. Franchisor's acceptance of an insurance carrier does not constitute Franchisor's representation or guarantee that the insurance carrier will be capable of meeting claims during the term of the insurance policy. Franchisee agrees to carry such insurance as may be required by the Lease of the Accepted Location or by any of Franchisee's lenders or equipment lessors and such workers' compensation insurance as may be required by applicable law. Except for Franchisee's workers' compensation insurance policy, Franchisee shall add Franchisor to all insurance policies as an additional insured, the cost of which will be paid by Franchisee. No insurance policy will be subject to cancellation, termination, nonrenewal or material modification, except upon at least 30 calendar days' prior written notice from the insurance carrier to Franchisor. Franchisee must submit a certification of insurance which demonstrates compliance with this Section. If Franchisee fails to comply with the minimum insurance requirements set forth herein, Franchisor has the right to obtain such insurance and keep same in force and effect and Franchisee shall pay Franchisor, on demand, the premium cost thereof and administrative costs of 18% in connection with Franchisor's obtaining the insurance. Franchisor has the right to increase or otherwise modify the minimum insurance requirements upon 30 days prior written notice to Franchisee, and Franchisee shall comply with any such modification within the time specified in said notice.

## **10. FINANCIAL RECORDS AND REPORTS**

Franchisee must maintain for at least 7 fiscal years from their preparation complete financial records for the Restaurant in accordance with generally accepted accounting principles and must provide Franchisor, at Franchisor's request, with (i) a weekly sales report through Franchisee's POS system or if a weekly sales report is unavailable through its POS system, then Franchisee will provide a weekly sales report signed by Franchisee and in the form Franchisor specifies which contains the sales information pertaining to the preceding week including, without limitation, a summary of all monies received during the relevant period, as well as customer counts and average sales, and such other additional information which Franchisor deems necessary to properly evaluate the Restaurant's performance; (ii) a monthly income statement and profit and loss statement, in a format specified by Franchisor, including a standard chart of accounts; (iii) an annual financial report and operating statement in the form Franchisor specifies, prepared by a certified public accountant or state licensed public accountant, within 90 days after the close of each of Franchisee's fiscal years; (iv) state and local sales tax returns or reports and federal, state and local income tax returns for each year in which the Restaurant is operated, within 30 days after their timely completion; and (v) such other reports as Franchisor may from time to time require, in the form and at the time Franchisor prescribes. Franchisee's fiscal year must be on a calendar year basis. Franchisee agrees to provide unaudited monthly profit and loss statements for the Restaurant. These statements are due on the tenth day of each month. To assist Franchisee in recording and keeping accurate and detailed financial records for reports and tax returns, Franchisor, in Franchisor's sole discretion, may specify the form in which the business records are to be maintained, provide a uniform set of business records for Franchisee to use, and specify the type of cash register or other equipment to be used in connection with the Restaurant. Franchisee acknowledges that Franchisor shall have the right to require Franchisee to utilize computer-based point-of-sale cash registers with non-resettable cash register receipts which are fully compatible with any computer program or system which Franchisor, in Franchisor's sole discretion, may employ. If Franchisor requires such computerized cash registers, all Net Sales and sales information shall be recorded on such equipment. Franchisor shall have full access to all of Franchisee's data, system, and related information by means of direct access, whether in person, or by telephone/modem installed and maintained at Franchisee's sole expense.

## 11. BOOKS AND RECORDS

Franchisee must maintain accurate business records, reports, accounts, books and data relating to the operation of the Restaurant. Franchisee is required to use a bookkeeping service vendor specified or approved by Franchisor for a minimum of twelve (12) months following the opening date of the Restaurant. Franchisor and Franchisor's designees have the right to inspect and/or audit Franchisee's business records at any time during normal business hours, to determine whether Franchisee is current with suppliers and is otherwise operating the Restaurant in compliance with the terms of this Agreement and the Operations Manuals. If any audit reveals that Franchisee has understated Franchisee's Net Sales or overstated Franchisee's local advertising expenditures, by more than 2%, or if Franchisee has failed to submit timely reports and/or remittances for any 2 reporting periods within any 12-month period, in addition to Franchisor's right to terminate the Franchise pursuant to Section 15.2, Franchisee must pay the reasonable cost of such audit and/or inspection, including the cost of outside auditors and attorneys (to the extent Franchisor incurs such costs), together with amounts due for royalty fees, advertising fees and other fees as a result of such underreporting and/or failure to submit reports, along with all late fees and interest which may otherwise be due under this Agreement.

## 12. ADVERTISING

Recognizing the value of advertising and promotion, and the importance of the standardization of advertising and promotional programs to the furtherance of the goodwill and public image of the System, the parties agree as follows:

12.1 **Generally.** With regard to advertising generally for the Restaurant, Franchisee shall place or display at the Accepted Location (interior and exterior) only such signs, emblems, lettering, logos and displays and advertising materials as Franchisor approves in writing from time to time. Franchisee shall submit to Franchisor, at least 15 days prior to publication or use, samples of all advertising and promotional materials Franchisee desires to use, including, but not limited to, print, radio and television advertising, signage, supplies and packaging which Franchisor has not previously approved. Such submission shall not affect Franchisee's right to determine the prices at which it sells its services and products. Within 10 business days after Franchisor's receipt of any sample advertising or promotional materials from Franchisee, Franchisor shall notify Franchisee in writing of its approval or disapproval of the materials; provided, however, Franchisor's failure to approve or disapprove the materials within 10 days after receipt shall be deemed a disapproval. Franchisee shall not use any advertising or promotional materials for which Franchisor has not given Franchisor's prior written approval. If Franchisee uses unapproved advertising or promotional materials, Franchisee must pay Franchisor \$1,000 per occurrence. All advertising and promotional materials shall prominently display the Proprietary Marks and shall comply with any standards for use of the Proprietary Marks Franchisor establishes as set forth in the Operations Manuals or otherwise in writing. Franchisor may require Franchisee to discontinue the use of any advertising or marketing material, within time frames prescribed by Franchisor, at Franchisee's sole cost and expense. Franchisor reserves the right to disapprove any discount or coupon issued by Franchisee. Franchisee must refrain from any merchandising, advertising or promotional practice which is unethical, or which may be injurious to the System or to the goodwill associated with the Proprietary Marks.

12.2 **Brand Development Fund.** Franchisor has established a national advertising fund (the "Brand Development Fund") for the common benefit of System franchisees. Franchisee is required to participate in and pay weekly a brand fund development fee ("Brand Fund Development Fee") to the Brand Development Fund in the manner Franchisor prescribes. Currently, Franchisee must pay 3% of Net Sales. Franchisee must pay the Brand Fund Development Fee in the same manner as the royalty fees due under this Agreement. If 50% or more of voting System franchisees

elect to increase the Brand Fund Development Fee to the Brand Development Fund to levels higher than 3%, then Franchisee must make payments to the Brand Development Fund at the new percentage level applicable to the Restaurant. For voting purposes, a franchisee is entitled to one (1) vote for each Zoup! franchise agreement in good standing with an open and operating restaurant. Franchisor has the right to require that a regional advertising cooperative and/or franchisee advisory council be formed, changed, dissolved or merged.

12.2.1 Franchisor in its sole discretion, either directly or through a designated affiliate, will use the Brand Development Fund payments and contributions to develop, produce and distribute national, regional and/or local advertising and to create advertising materials and public relations programs which promote the services and products offered by System franchisees. Franchisor or its designated affiliate has the sole right to determine expenditures from the Brand Development Fund, or any other advertising program, and sole authority to determine, without limitation, the selection of the advertising and promotional materials and programs; provided, however, that Franchisor or its designated affiliate will make a good faith effort to expend the Brand Development Fund in the general best interests of the System. Franchisor or its designated affiliate may use the Brand Development Fund to satisfy any and all costs of maintaining, administering, directing, preparing and producing marketing programs and materials, including but not limited to the cost of planning, purchasing and placement of media; the cost of retained relationships with advertising, public relations and product development agencies; the cost of developing and maintaining internet websites, smartphone apps and social media accounts and pages; and the cost of personnel in Zoup! marketing and other functional departments that assist in any way with the aforementioned research, testing, creation, development, production and execution of menu and marketing programs and materials; the cost of holding the Annual Convention and personnel and other departmental costs for advertising that Franchisor or its designated affiliate internally administers or prepares. Nevertheless, Franchisee acknowledges that not all System franchisees will benefit directly or on a pro rata basis from such expenditures. While Franchisor does not anticipate that any part of the Brand Development Fund will be used for advertising which is principally a solicitation for franchisees, Franchisor and its designated affiliate reserve the right to use the Brand Development Fund for public relations or recognition of the Zoup! brand, for the creation and maintenance of a website, a portion of which can be used to explain the franchise offering and solicit potential franchisees, and to include a notation in any advertisement indicating “Franchises Available.”

12.2.2 Franchisor or its designated affiliate may periodically assist System Franchisees to maintain high quality standards through customer surveys, customer interviews, and other similar initiatives (“Surveys”). The cost of such programs will be borne by the Brand Development Fund. The cost of such programs may be charged directly to Franchisee if Franchisee’s results from a Survey fall below System established minimum standards for such Surveys. Any such fees charged will be contributed to the Brand Development Fund.

12.2.3 Franchisor and/or its designated affiliate have the right to be reimbursed from the Brand Development Fund for such reasonable costs and overhead, if any, as Franchisor or its designated affiliate may incur in activities reasonably related to the direction and implementation of the Brand Development Fund.

12.2.4 Franchisor’s contribution to the Brand Development Fund for subsequent company-owned restaurants will be equal to that provided for in Franchisor’s franchise disclosure document in the year that the company-owned restaurant is established. Should Brand Fund Development Fee payments for the System decrease at any time, Franchisor has the right to reduce Franchisor’s contributions from company-owned restaurants to the Brand Fund Development Fee rate specified for franchised restaurants.

12.2.5 Franchisor or its designated affiliate will prepare on an annual basis, and will have available for Franchisee within 90 days after the end of the fiscal year, an unaudited statement showing payments and contributions to, and expenditures from, the Brand Development Fund, prepared by Franchisor. The statement will be presented to Franchisee upon Franchisee's written request.

12.2.6 It is anticipated that all payments and contributions to the Brand Development Fund shall be expended for development and promotional purposes during Franchisor's fiscal year within which payments and contributions are made. If, however, excess amounts remain in the Brand Development Fund at the end of such fiscal year, all remaining amounts will carry over to the next fiscal year.

12.3 **Regional Advertising Cooperative.** Franchisor shall have the right, in Franchisor's sole discretion, to determine the composition of all geographical territories for purposes of establishing regional advertising cooperatives ("Cooperatives"), and to determine whether a Cooperative is applicable to the Restaurant. If a Cooperative has been established applicable to the Restaurant at the time Franchisee begins operating under this Agreement, Franchisee must immediately become a member of the Cooperative. If a Cooperative applicable to the Restaurant is established at any later time during the term of the Franchise, Franchisee must become a member of the Cooperative no later than 30 days after the date on which the Cooperative begins operation. If the Restaurant is within the territory of more than one Cooperative, Franchisee is required to be a member of only one Cooperative. The following provisions will apply to each Cooperative:

12.3.1 Each Cooperative will be organized and governed in a form and manner, and will commence operation on a date, approved in advance by Franchisor and Franchisor may require that an advisory council be formed, changed, dissolved or merged;

12.3.2 Each Cooperative will be organized for the exclusive purpose of administering regional advertising programs and developing, subject to Franchisor's approval, standardized advertising and promotional materials for use by the members;

12.3.3 No advertising or promotional materials or plans may be used by a Cooperative or furnished to its members without Franchisor's prior approval. All such materials and plans shall be submitted to Franchisor in accordance with the procedure set forth in Section 12.1 hereof;

12.3.4 Once established, each Cooperative will be self-administered by its members who will elect their own officers in accordance with the bylaws and other governing documents, which may be changed only with Franchisor's approval;

12.3.5 All contributions to and activities of the Cooperative shall be determined by a majority vote of the members of the Cooperative. Contributions to the Cooperative may exceed the Local Advertising Requirement. However, Franchisee will receive credit for Cooperative contributions against the Local Advertising Requirement. Any company-owned Restaurant in a geographical territory covered by a Cooperative will make contributions to the Cooperative at the same rate and at the same time as the members of the Cooperative make contributions;

12.3.6 Each member franchisee must submit to the Cooperative, no later than the Wednesday following the first Monday of each month, for the preceding month, its respective contribution as provided in this Agreement together with such other statements or reports as Franchisor may require or as may be required by the Cooperative with Franchisor's approval; and

12.3.7 Franchisor may grant to any franchisee or company-owned restaurant, in Franchisor's sole discretion, an exemption for any length of time from the requirement of membership in a Cooperative, upon written request of such franchisee or company-owned restaurant stating reasons supporting such exemption. Franchisor's decision concerning any such request for exemption will be final.

12.4 **Local Advertising.** In addition to the Cooperative contributions described above, Franchisee shall be required to make the following expenditures on local advertising and promotion (the "Local Advertising Requirement"): (a)(i) 2% of annual Net Sales if Restaurant is located in a mall food court, less the amount paid to the mall for marketing or (ii) 2% of annual Net Sales, if the Restaurant is not located in a mall food court, and (b) at least Five Thousand Dollars (\$5,000.00) for grand re-opening following any remodel of the Restaurant. Franchisee must spend the Local Advertising Requirement as Franchisor prescribes in the Operations Manuals or otherwise in writing, which may include, without limitation, requirements for placing a certain number and/or certain type(s) of media advertisements, regardless of the amount(s) spent by other System franchisees on local advertising. Franchisee may spend any additional sums Franchisee wishes on local advertising. Franchisee must use only such advertising and promotional materials as have been previously approved by Franchisor or obtained through Franchisor's intranet site. Franchisee will submit to Franchisor an annual plan for Franchisee's expenditure of Franchisee's local marketing budget. Franchisee will provide Franchisor with proof of these expenditures upon Franchisor's request. Franchisee acknowledges and agrees that the Local Advertising Requirement must be expended regardless of the amount(s) spent by other System franchisees on local advertising. Franchisor may, at any time, require documentation of Franchisee's actual approved local store marketing expenditures. After Franchisor's review of such documentation, if Franchisor determines, in its sole discretion, that Franchisee has not complied with Franchisor's standards for the Local Advertising Requirement, Franchisor reserves the right to require Franchisee to remit the Local Advertising Requirement payments directly to Franchisor, which Franchisor will expend on advertising in Franchisee's region as Franchisor determines in its sole discretion. Franchisor will provide documentation to Franchisee detailing these expenditures. Franchisor reserves the right, in its sole discretion, to direct certain expenditures of Franchisee's Local Advertising Requirement in the form and manner as Franchisor prescribes. From time to time, some or all System franchisees will be directed to spend local advertising monies in the form and in the manner as Franchisor prescribes.

## 12.5 **Internet Website.**

12.5.1 Franchisor has established a website that provides information about the System and Franchisor's services and products. Franchisor may use part of the monies from the funds that Franchisor collects under this Agreement to pay or reimburse the costs associated with the development, maintenance and update of such website. Franchisor will be the web master, either directly or through a third party, and have sole discretion and control over such website.

12.5.2 Franchisor may design and provide to Franchisee a web page for the promotion of the Restaurant on Franchisor's website. In such case, Franchisor will be the web master, either directly or through a third party, and have sole discretion and control over such web page. Franchisor will review and execute, subject to Franchisor's approval, requested changes to Franchisee's web page. Franchisee will not violate Franchisor's privacy policies as posted on the website. Franchisee must also participate in any system-wide computer network, intranet system, or extranet implemented by Franchisor as described in Section 7.13 above.

12.5.3 Franchisee acknowledges that Franchisor is the lawful, rightful and sole owner of the internet domain name [www.zoup.com](http://www.zoup.com), and any other internet domain names registered by Franchisor, and unconditionally disclaims any ownership interest in those or any

similar internet domain names. Franchisee agrees not to register any internet domain name in any class or category that contains words used in or similar to any brand name owned by Franchisor or Franchisor's affiliates, or that contains any abbreviation, acronym, phonetic variation or visual variation of those words. In the event that Franchisee violates this Section, Franchisee shall be responsible for all costs incurred in transferring such domain name to Franchisor, as well as those incurred in registering a new domain name.

### **13. INDEPENDENT CONTRACTOR; INDEMNIFICATION**

#### **13.1 Independent Contractor.**

13.1.1 Relationship of Parties. Under this Agreement, Franchisee is an independent contractor with entire control and direction of the Restaurant, subject only to the terms of this Agreement and its attachments. This Agreement is not intended to and does not create a fiduciary or other special relationship between the parties, or make any party a principal, agent, legal representative, parent, affiliate, subsidiary, joint venturer, partner, employer, joint employer, employee or servant of any other party for any purpose. In that regard:

13.1.1.1 Franchisor has no right or duty to operate the Restaurant and disclaims any liability under this Agreement for any damages arising out of the operation of the Restaurant.

13.1.1.2 Franchisee is solely responsible for recruiting, interviewing, hiring, timekeeping, scheduling, payroll processing, supervising, disciplining and firing Franchisee's personnel, and Franchisee's personnel are not Franchisor's employees, independent contractors or agents. Franchisor has no right or duty to supervise, or to exercise control over, Franchisee's personnel in the operation of the Restaurant, and disclaims any rights or responsibilities as to Franchisee's personnel. Franchisee is solely responsible for consulting with its own third-party HR service provider and/or legal counsel concerning compliance with personnel laws and regulations that are applicable within the Territory, and for complying with those laws and regulations.

13.1.1.3 Except as provided in this Agreement, Franchisee is solely responsible for training its personnel. To the extent that Franchisor provides Franchisee with guidelines, recommendations and materials related to training Franchisee's management or non-management personnel, Franchisee may use those resources, or may choose to use alternate resources, so long as its management and non-management personnel are trained to operate the Restaurant in a System-compliant, legal and safe manner.

13.1.1.4 Franchisee is solely responsible for establishing and enforcing its own policies related to personnel practices and labor relations policies. To the extent that Franchisor provides Franchisee with guidelines, recommendations and materials related to personnel practices and labor relations, Franchisee may use those resources, or may choose to use alternate resources. Franchisee is solely responsible for consulting with its own third-party HR service provider and/or legal counsel concerning compliance with personnel and labor relations laws and regulations that are applicable within the Territory, and for complying with those laws and regulations.

13.1.2 Notices to Public, Etc. During the Term, Franchisee shall hold itself out, to the public, public officials, its suppliers, its independent contractors and others, as an independent contractor operating the Restaurant pursuant to rights granted by Franchisor, but not jointly with Franchisor. Franchisee shall take any reasonable action that Franchisor considers necessary to that end, including exhibiting notices of the parties' relationship in a conspicuous

manner at the Restaurant, and on websites, letterhead, forms, business cards, electronic communications, advertisements, and other materials Franchisor designates. At Franchisor's request, Franchisee shall prominently display a "Franchises Available" notice at a place or places in the Restaurant that Franchisor designates. Franchisor reserves the right to specify and change the content and form of these notices.

13.1.3 Statements to and Acknowledgements by Employees. During the Term, Franchisee shall hold itself out to its prospective employees, and to its employees, as an independent contractor operating the Restaurant pursuant to rights granted by Franchisor, but not jointly with Franchisor. Franchisee shall take any reasonable action that Franchisor considers necessary to that end, including: (i) stating conspicuously on each employment application that the prospective employee is applying to be Franchisee's employee and not an employee of Franchisor; (ii) stating Franchisee's entire business name, rather than just using Franchisor's brand name and/or logo, on Franchisee's payroll checks and/or payroll-related communications to employees; and (iii) requiring employees to sign acknowledgements that they are not employees of Franchisor, even though they are selling services and products identified by Franchisor's brand name and/or logo, are receiving payroll checks and other communications that contain Franchisor's brand name and/or logo, may have applied for jobs through Franchisor's website, or may communicate with or receive non-mandatory feedback, coaching or recommendations from representatives of Franchisor in emails or other electronic or written communications, or during telephone calls, meetings or inspections. Franchisor reserves the right to specify and change the content and form of these statements and acknowledgements.

13.1.4 Contracts, Etc. Nothing in this Agreement authorizes Franchisee to make any contract, agreement, warranty or representation on Franchisor's behalf; to incur any obligation, debt or expense in Franchisor's name; or to make any representation to any third party tending to indicate a business relationship with Franchisor beyond that created under this Agreement. Franchisor disclaims any liability for, and shall not be liable under this Agreement for, any claim or judgment arising as a result of any such action by Franchisee. Nor shall Franchisor be liable by reason of any of Franchisee's acts or omissions in the operation of the Restaurant, or for any claim or judgment arising therefrom against Franchisee or Franchisor. Under this Agreement, no party is responsible for any obligations, debts or expenses of any other party.

13.2 **Indemnification.** Franchisee and Franchisee's principals agree to indemnify, defend and hold Franchisor, Franchisor's affiliates and their respective shareholders, members, directors, officers, employees, agents, successors and assignees ("Indemnitees") harmless against and to reimburse them for all claims, obligations, liabilities and damages ("Claims"), including any and all taxes, directly or indirectly arising out of, in whole or in part: (a) the operation of the Restaurant, including the use, condition, or construction, equipping, decorating, maintenance or operation of the Restaurant, the sale of any food products, service or merchandise sold from the Restaurant, Franchisee's failure to comply with System standards or the terms of this Agreement, and Franchisee's advertising; (b) the use of the Proprietary Marks; (c) the transfer of any interest in this Agreement or the Restaurant in any manner not in accordance with this Agreement; (c) all lease obligations for Franchisee's premises whether Franchisor is a party to the lease as tenant and/or guarantor; (d) the infringement, alleged infringement, or any other violation or alleged violation by Franchisee or any of Franchisee's principals of any patent, mark or copyright or other proprietary right owned or controlled by third parties; or (e) libel, slander or any other form of defamation of Franchisor, the System or any franchisee or developer operating under the System, by Franchisee or by any of Franchisee's principals. For purposes of this indemnification, "Claims" shall mean and include all obligations, actual, consequential, punitive and other damages, and costs reasonably incurred in the defense of any action, including attorneys', attorney assistants' and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses,



and travel and living expenses, whether or not such Claims exceed the amount of insurance coverage available through Franchisee to Franchisor. Franchisor shall have the right to defend any such Claim against it in such manner as Franchisor deems appropriate or desirable in Franchisor's sole discretion. Such an undertaking by Franchisor shall, in no manner or form, diminish Franchisee's and each of Franchisee's principals' obligations to indemnify the Indemnitees and to hold them harmless. Franchisee specifically acknowledges that: (a) Franchisor does not have any reserved or general right to exercise control over, and does not exercise any direct or indirect control over, the day-to-day operation of the Restaurant (including operations-related functions such as safety and security, the use of equipment and motor vehicles, and the delivery of services and products to customers, and personnel-related functions such as recruiting, interviewing, hiring, timekeeping, scheduling, payroll processing, supervising, disciplining and firing), (b) all liability arising out of the operation of the Restaurant is therefore Franchisee's responsibility, and (c) Franchisee's indemnification obligation under this Section 13.2 covers any "joint employer," "agency," "ostensible agency" or similar claims by third parties based on the establishment or operation of the Restaurant. Franchisee's indemnification obligation under this Section 13.2 shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of the Franchise.

## **14. SALE OR TRANSFER**

14.1 **Transfer.** Franchisee's rights under this Agreement are personal, and Franchisee shall not sell, transfer, assign or encumber Franchisee's interest in the Franchise, Franchisee, the Restaurant or this Agreement without Franchisor's prior written consent. Any sale, transfer, assignment or encumbrance made without Franchisor's prior written consent shall be voidable at Franchisor's option and shall subject the Franchise to termination as specified herein.

### **14.2 Death or Disability.**

14.2.1 Legal Representative's Right to Continue as Franchisee. In the event of Franchisee's death, disability or incapacitation (or the death, disability or incapacitation of Franchisee's partners or personal guarantors), Franchisee's legal representative (or Franchisee's partner's or guarantor's respective legal representative, as applicable) shall have the right to continue the operation of the Restaurant as Franchisee under this Agreement if: (i) within 90 days from the date of death, disability or incapacity (the "90-day period"), such person has obtained Franchisor's prior written approval and has executed Franchisor's then-current franchise agreement for the unexpired term of the Franchise, or has furnished a personal guaranty of any partnership, corporate or limited liability company franchisee's obligations to Franchisor and Franchisor's affiliates; and (ii) such person successfully completes Franchisor's training program (which Franchisor will provide at Franchisor's then-current fee). Such assignment by operation of law will not be deemed in violation of this Agreement, provided such heirs or legatees accept the conditions imposed by this Agreement and are acceptable to Franchisor.

14.2.2 Restaurant Operation During and After 90-Day Period. Franchisor is under no obligation to operate the Restaurant, or to incur any obligation on behalf of any incapacitated franchisee, during or after the 90-day period. If necessary, Franchisee (or Franchisee's legal representative, as applicable) shall appoint a previously approved acting interim Manager to operate the Restaurant during the 90-day period. In the event of Franchisee's death, disability, absence or otherwise, Franchisor may (but is not required to) operate the Restaurant on Franchisee's behalf and at Franchisee's expense for such period of time (and under such terms and conditions) as Franchisor determines, including paying out of the assets and/or revenue of the Restaurant any or all past, current and/or future obligations of the Restaurant (including any amounts owed to Franchisor and/or any affiliate) in such priorities as Franchisor determines from time to time in Franchisor's sole discretion. Franchisor may pay itself a reasonable amount as

reimbursement for Franchisor's management services and other costs. Franchisor may obtain approval of a court or arbitrator for any such arrangements, the attorneys' fees and other costs incurred in connection with obtaining such approval to be charged against the assets and/or revenue of the Restaurant. Franchisee (and/or Franchisee's estate) will indemnify Franchisor against any costs and/or liabilities incurred by Franchisor in connection with, or related in any way to, the operation or non-operation of the Restaurant during or after the 90-day period.

**14.3 Ownership Changes.** A sale, transfer or assignment requiring Franchisor's prior written consent shall be deemed to occur: (i) if Franchisee is a corporation, upon any assignment, sale, pledge or transfer of any fractional portion of Franchisee's voting stock or any increase in the number of outstanding shares of Franchisee's voting stock which results in a change of ownership, (ii) if Franchisee is a partnership, upon the assignment, sale, pledge or transfer of any fractional partnership ownership interest; or (iii) if Franchisee is a limited liability company, upon the assignment, sale, pledge or transfer or any interest in the limited liability company. Any new shareholder, partner, member or manager will be required to personally guarantee Franchisee's obligations under this Agreement. A transfer pursuant to (i) and (iii) above shall not be subject to Franchisor's right of first refusal as set forth in Section 14.3.1.

**14.3.1 Right of First Refusal.** If Franchisee proposes to transfer either the Franchise or all, or substantially all, of the assets used in connection with the operation of the Restaurant or any interest in Franchisee's Lease to any third party (other than a corporation or limited liability company as set forth in Section 14.4 hereof), Franchisee shall first offer to sell such interest to Franchisor on the same terms and conditions as offered by such third party. Franchisee shall obtain from the third party and provide Franchisor a statement in writing, signed by the third party and Franchisee, of the terms of the offer ("Letter of Intent"). If Franchisor elects not to accept the offer within a 30-day period, Franchisee shall have a period not to exceed 60 days to complete the transfer described in the Letter of Intent subject to the conditions for approval set forth in Section 14.3.2 hereof. Franchisee shall effect no other sale or transfer as contemplated under the Letter of Intent without first complying with this Section 14.3.1. Any material change in the terms of the offer shall be deemed a new proposal subject to Franchisor's right of first refusal. So long as Franchisee has obtained Franchisor's prior written consent, which shall not be unreasonably withheld, a transfer to an existing shareholder, partner or member, or a transfer as a result of the death, disability or incapacitation of a shareholder, partner or member, in accordance with the provisions set forth below, is not subject to Franchisor's first right of refusal.

**14.3.2 Conditions for Approval.** Franchisor may condition Franchisor's approval of any proposed sale or transfer of the Restaurant or of Franchisee's interest in this Agreement upon satisfaction of the following occurrences:

**14.3.2.1** All of Franchisee's accrued monetary obligations to Franchisor, Franchisor's affiliates, and Franchisor's major suppliers and vendors, are satisfied;

**14.3.2.2** Franchisee must cure all existing defaults under this Agreement, or any other agreements between Franchisee and Franchisor, Franchisor's affiliates, and Franchisor's major suppliers and vendors, within the period permitted for cure and have substantially complied with such agreements during their respective terms;

**14.3.2.3** Franchisee and Franchisee's principals (if Franchisee is a partnership, corporation or limited liability company), and the transferee (if it has had any previous relationship with Franchisor or Franchisor's affiliates), must execute a general release under seal, in a form satisfactory to Franchisor, of any and all claims against Franchisor and Franchisor's affiliates and officers, directors, shareholders and employees,

in their corporate and individual capacities; provided, however, the release shall not be inconsistent with any applicable state statute regulating franchising;

14.3.2.4 Franchisee or the transferee shall provide Franchisor a copy of the executed purchase agreement relating to the proposed transfer with all supporting documents and schedules, including transferee's assumption of and agreement to faithfully perform all of Franchisee's obligations under this Agreement;

14.3.2.5 The transferee shall demonstrate to Franchisor's satisfaction that he or she meets Franchisor's educational, managerial and business standards; possesses a good moral character, business reputation and credit rating; has the aptitude and ability to conduct the business to be transferred; and has adequate financial resources and capital to meet the performance obligations under this Agreement; however, transferee shall not be in the same business as Franchisor either as licensor, franchisor, independent operator or licensee of any other restaurant, chain or network which is similar in nature or in competition with Franchisor, except that the transferee may be an existing franchisee of Franchisor;

14.3.2.6 The transferee shall execute Franchisor's then-current Franchise Agreement;

14.3.2.7 The transferee agrees to renovate, refurbish, remodel, or replace, at the transferee's own cost, the real and personal property, signage and equipment used in operating the Restaurant within the timeframe specified by Franchisor in order to comply with Franchisor's then current specifications. Franchisor may require the transferee to place the full amount of the anticipate remodeling cost in an escrow account;

14.3.2.8 Franchisee or transferee shall pay Franchisor a transfer fee equal to 50% of Franchisor's then-current initial franchise fee if transferring to an existing Zoup! franchisee; or 75% of Franchisor's then-current initial franchise fee if transferring to a new, non Zoup! franchisee; if Franchisee sells a portion of the business to a new partner, the partner will be required to pay a percentage of the transfer fee equal to the percentage of the business being transferred; or if Franchisee is removing a partner and at least one existing partner is remaining on the Franchise Agreement and Franchisor approves of such change of ownership, then Franchisee or transferee shall pay Franchisor an administrative fee of \$2,000 to effect such transfer of ownership.

14.3.2.9 The transferee shall satisfactorily complete Franchisor's training program at the transferee's expense prior to assuming responsibility for the operation of the Restaurant;

14.3.2.10 Franchisee (and Franchisee's principals if Franchisee is a partnership, corporation or limited liability company), and their spouses and dependents must comply with the post-termination provisions of this Agreement;

14.3.2.11 The transferee must obtain, within the time limits set by Franchisor, and maintain thereafter, all permits and licenses required for the operation of the Restaurant;

14.3.2.12 To the extent required by the terms of any leases or other agreements, the lessors or other parties must have consented to the proposed transfer;

14.3.2.13 The transfer must be made in compliance with any laws that apply to the transfer, including state and federal laws governing the offer and sale of franchises;

14.3.2.14 The purchase price and terms of the proposed transfer are not so burdensome to the prospective transferee as to impair or materially threaten its future operation of the Restaurant and performance under its Franchise Agreement;

14.3.2.15 Franchisee must request that Franchisor provide the prospective transferee with Franchisor's then-current form of franchise disclosure document and Franchisor shall not be liable for any representations not included in Franchisor's franchise disclosure document;

14.3.2.16 Franchisor's approval of the transfer shall not constitute a waiver of any claims Franchisor may have against the transferring party;

14.3.2.17 Franchisor shall have the right to disclose to any prospective transferee such revenue reports and other financial information concerning Franchisee and the Restaurant as Franchisee has supplied Franchisor hereunder;

14.3.2.18 Franchisee is responsible for payment of all commissions or other monies due related to the sale of the Restaurant if: (i) Franchisee listed the Restaurant with a broker; or (ii) transferee is referred to Franchisor by a broker network or otherwise; and

14.3.2.19 In any event, Franchisor may withhold or condition Franchisor's consent to any transfer as Franchisor deems appropriate based on the circumstances of the transfer or otherwise.

**14.4 Transfer to a Corporation or Limited Liability Company.** If Franchisee is an individual and desires to extend its rights under this Agreement to a corporation or limited liability company, and if all of the following conditions are met, Franchisor will consent to the transfer without assessing the transfer fee set forth in Section 14.3.2.7, and such transfer will not be subject to Franchisor's right of first refusal in Section 14.3.1:

14.4.1 The corporation or limited liability company is newly organized, and its activities are confined to operating the Restaurant;

14.4.2 Franchisee is, and at all times remains, the owner of 51% or more of the outstanding shares of the corporation or a controlling interest in the limited liability company;

14.4.3 The corporation or limited liability company agrees in writing to perform and be bound by all of Franchisee's obligations hereunder;

14.4.4 Franchisee shall remain personally liable for the performance of all obligations of the Franchisee under this Agreement and is not released from any obligations to the Franchisor. All other stockholders, officers and directors of the corporation, or all members and managers of the limited liability company, as applicable, shall personally guarantee prompt payment and performance by the corporation or limited liability company of all its obligations to Franchisor and Franchisor's affiliates, under this Agreement and any other agreement between Franchisee and Franchisor and/or Franchisor's affiliates, and execute a non-competition agreement as set forth in Section 17.4 hereof; and

14.4.5 Franchisee submits to Franchisor a copy of the filed incorporation or formation document for the corporation or limited liability company, and a copy of a resolution or

operating agreement naming the stockholders, members, directors, officers and managers, as applicable, of the corporation or limited liability company.

14.5 **Commission.** If Franchisor assists Franchisee in selling the Restaurant in a manner similar to a broker, Franchisor will receive at closing a commission in the amount of 5% percent of the gross purchase price. In the event that Franchisee sells or transfers the Restaurant to a buyer who was in contact with Franchisor prior to Franchisee, Franchisor will receive at closing a commission in the amount of 10% percent of the gross purchase price.

14.6 **Franchisor's Right to Transfer.** Franchisor has the right to sell, transfer, assign and/or encumber all or any part of Franchisor's assets and Franchisor's interest in, and rights and obligations under, this Agreement in Franchisor's sole discretion.

## 15. DEFAULT AND TERMINATION

15.1 **Automatic Termination.** The Franchise shall automatically terminate without notice or an opportunity to cure upon the occurrence of any of the following:

15.1.1 **Voluntary Bankruptcy.** If Franchisee makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy, is adjudicated bankrupt or insolvent, files or acquiesces in the filing of a petition seeking reorganization or arrangement under any federal or state bankruptcy or insolvency law, or consents to or acquiesces in the appointment of a trustee or receiver for Franchisee or the Restaurant.

15.1.2 **Involuntary Bankruptcy.** If proceedings are commenced to have Franchisee adjudicated bankrupt or to seek Franchisee's reorganization under any state or federal bankruptcy or insolvency law, and such proceedings are not dismissed within 60 days, or a trustee or receiver is appointed for Franchisee or the Restaurant without Franchisee's consent and the appointment is not vacated within 60 days.

15.1.3 **Unauthorized Transfer.** Franchisee purports to sell, transfer or otherwise dispose of the Franchise or any interest in the Restaurant in violation of Section 14 of this Agreement.

15.2 **With Notice and Without Opportunity to Cure.** Franchisor has the right to terminate the Franchise upon notice without providing Franchisee an opportunity to cure for any of the following defaults:

15.2.1 **Criminal Acts.** If Franchisee or any of Franchisee's principals is convicted of or pleads guilty or no contest to a felony or takes part in any criminal misconduct relevant to the operation of the Restaurant.

15.2.2 **Fraud.** If Franchisee or any of Franchisee's principals commits any fraud or misrepresentation in the operation of the Restaurant.

15.2.3 **Misrepresentation.** If Franchisee or any of Franchisee's principals makes any misrepresentation or omission in connection with Franchisee's franchise application, including but not limited to any financial misrepresentation.

15.2.4 **Failure to Complete Training or Attend Seminar.** If Franchisee fails to complete initial training as provided in Section 8.1, or to attend the Franchise Orientation Seminar as provided in Section 6.3.

15.2.5 **Repeated Defaults.** If Franchisor sends Franchisee 2 or more written notices to cure pursuant to Sections 15.3 or 15.4 of this Agreement within any 12-month period.

15.2.6 Default of Other Agreements. If Franchisee or any of Franchisee's principals, or the principals of any entity formed for the purpose of entering into any other agreement with Franchisor, materially defaults on any other agreement with Franchisor or any of Franchisor's affiliates, or threatens any material default under any other agreement, or any Lease for the Accepted Location, and fails to cure such default within any permitted period for cure.

15.2.7 Misuse of the Proprietary Marks or Confidential Information. If Franchisee or any of Franchisee's principals materially violates any provision hereof pertaining to Proprietary Marks or Confidential Information or misuses the Proprietary Marks or Confidential Information.

15.2.8 Violation of Health Code. If Franchisee violates any health, safety or sanitation law, ordinance or regulation or operates the Restaurant in a manner that presents a health or safety hazard to customers or the general public.

15.2.9 Health and Sanitation. If any inspection by Franchisor or Franchisor's third-party vendor discloses that the Restaurant, in Franchisor's reasonable discretion, poses an imminent health or safety risk to customers.

15.2.10 Violation of In-Term Restrictive Covenant. If Franchisee violates the in-term restrictive covenant contained in Section 17.1.

15.2.11 Liens. If a levy of writ of attachment or execution or any other lien is placed against Franchisee or any of Franchisee's principals or any of their assets which is not released or bonded against within 30 days.

15.2.12 Insolvency. If Franchisee or any of Franchisee's principals becomes insolvent.

15.2.13 Abandonment. If Franchisee abandons the Restaurant. The term "abandon" includes any conduct, intentional or otherwise, voluntary or involuntary, which results in the Franchisee failing to operate the Restaurant as a Zoup! restaurant for a period of 2 or more consecutive days without Franchisor's prior written approval.

15.2.14 Unauthorized Services or Products. If Franchisee offers any unauthorized and unapproved services or products at or from the Restaurant.

15.2.15 Unapproved Purchases. Franchisee orders or purchases supplies, signs, furnishings, fixtures, equipment or inventory if they are required to be ordered or purchased from an approved supplier which Franchisor has not approved, or services and products from an unapproved supplier.

15.2.16 Unauthorized Use. Franchisee misuses or makes unauthorized use of Franchisor's system-wide computer network, intranet system, extranet system, or Proprietary Software Program.

15.2.17 Insurance. Franchisee fails to maintain insurance or to repay Franchisor for insurance paid for by it, or otherwise fails to adhere to the requirements of Section 9.

15.2.18 Government Regulations. Franchisee fails, within 15 calendar days after notification of non-compliance by any federal, state or local government authority, to comply with any law or regulation applicable to the Restaurant.

15.2.19 Government Actions. Any government action is taken against Franchisee that results in any obligation upon Franchisor which in Franchisor's sole judgment is

uneconomical, not in the best interests of Franchisor, or would result in Franchisor having an unintended relationship or obligation.

15.2.20 Anti-Terrorist Activities. Franchisee fails to comply with the provisions of Section 22.8.

15.2.21 Personal Use of Restaurant Property. If Franchisee takes for Franchisee's own personal use any assets or property of the Restaurant, including sales taxes, employee taxes, FICA, insurance or benefits.

15.2.22 Insufficient Funds. If there are insufficient funds in Franchisee's bank account to cover a check or EFT payment to Franchisor 3 or more times within any 12-month period.

15.2.23 Under-Reporting of Net Sales. If any audit reveals that Franchisee has understated Franchisee's Net Sales, or has overstated Franchisee's local advertising expenditures, by more than 2%, or if Franchisee has failed to submit timely reports and/or remittances for any 2 reporting periods within any 12-month period, as described in Section 11.

15.2.24 Failure to Open/Unauthorized Opening. If the Restaurant has not been opened by the Required Opening Date or Franchisee opens the Restaurant without Franchisor's prior written approval.

15.3 **Upon 15 Days' Notice to Cure**. Franchisor has the right to terminate the Franchise if any of the following defaults remains uncured after expiration of the 15-day cure period:

15.3.1 Nonpayment. If Franchisee fails to pay as and when due any sums owed to Franchisor, any of Franchisor's affiliates, or any of Franchisor's major suppliers or vendors.

15.3.2 Endorsement of Checks. Franchisee fails to immediately endorse and deliver to Franchisor any payment due to Franchisor from any third party that is erroneously made to Franchisee.

15.3.3 Failure to Maintain Sufficient Inventory Level. If Franchisee fails to maintain sufficient levels of inventory to adequately meet consumer demand.

15.3.4 Interruption of Service. If Franchisee fails to maintain at least the months, days or hours of operation at the Restaurant prescribed by Franchisor.

15.3.5 Failure to Personally Supervise Restaurant Operations or Maintain Sufficient Management Personnel. If Franchisee fails, in Franchisor's sole discretion, to personally supervise the day-to-day operation of the Restaurant, or fails to maintain sufficient trained, qualified and competent management personnel to supervise the day-to-day operation of the Restaurant.

15.3.6 Quality Control. If Franchisee fails to maintain the strict quality controls and standards reasonably required by this Agreement and/or the Operations Manuals.

15.3.7 Other Conduct Reflecting Adversely on System. Franchisee conducts itself in a manner that, although not criminal, reflects adversely on the System, the Proprietary Marks, or the services or products offered through the System, including but not limited to, failure to participate in any system-wide programs initiated by Franchisor.

15.3.8 Licenses, Certifications and Permits. Franchisee fails to procure or maintain any licenses, certifications or permits necessary for the operation of the Restaurant.

15.3.9 Applicable Law. Franchisee fails to operate the Restaurant in accordance with any applicable law.

15.4 **Upon 30 Days' Notice to Cure**. Franchisor has the right to terminate the Franchise if Franchisee fails to perform or comply with any one or more of the terms or conditions of this Agreement or any ancillary agreements between Franchisee and Franchisor or Franchisor's affiliates.

15.5 **Step-In Rights**. In addition to Franchisor's right to terminate the Franchise, and not in lieu of such right, or any other rights Franchisor may have against Franchisee, upon a failure to cure any default within the applicable time period (if any), Franchisor has the right, but not the obligation, to enter upon the Restaurant premises and exercise complete authority with respect to the operation of the Restaurant until such time as Franchisor determines, in Franchisor's sole discretion, that the default has been cured and Franchisee is otherwise in compliance with this Agreement. In the event Franchisor exercises the right described in this Section, Franchisee must reimburse Franchisor for all reasonable costs and overhead, if any, incurred in connection with its operation of the Restaurant including, without limitation, costs of personnel for supervising and staffing the Restaurant, including their payroll expenses, and their reasonable travel, lodging, meal and other expenses. If Franchisor undertakes to operate the Restaurant pursuant to this Section, Franchisee agrees to indemnify and hold Franchisor (and Franchisor's employees and agents) harmless from and against any fines, claims, suits or proceedings which may arise out of Franchisor's operation of the Restaurant.

15.6 **Nonwaiver**. Franchisor's delay in exercising or failing to exercise any right or remedy under this Agreement or Franchisor's acceptance of any late or partial payment due hereunder shall not constitute a waiver of any of Franchisor's rights or remedies against Franchisee.

15.7 **Disclaimer**. Franchisor disclaims any right under this Section 15 to terminate the Franchise based on any decision or action by Franchisee regarding recruiting, interviewing, hiring, keeping the time of, scheduling, processing the payroll of, supervising, disciplining or firing its personnel.

## 16. RIGHTS AND DUTIES UPON TERMINATION OR EXPIRATION

16.1 **Franchisee's Obligations**. Upon termination of the Franchise, regardless of the cause, and upon expiration and non-renewal or transfer of the Franchise, Franchisee must, at Franchisee's cost and expense:

16.1.1 Cease immediately all operations under this Agreement;

16.1.2 Pay Franchisor immediately all unpaid fees and pay Franchisor, Franchisor's affiliates, and Franchisor's suppliers and vendors, all other monies owed;

16.1.3 Discontinue immediately the use of the Proprietary Marks;

16.1.4 Immediately return to Franchisor the Operations Manuals and all other manuals and Confidential Information Franchisor loaned to Franchisee, and immediately and permanently cease use of the Confidential Information;

16.1.5 Immediately cease using all telephone numbers and listings, domain names and websites used in connection with the operation of the Restaurant and direct the telephone company and internet providers to transfer all such numbers, listings, domain names and websites to Franchisor or Franchisor's designee pursuant to the Conditional Assignment of Telephone Numbers, Domain Names and Websites attached hereto as Attachment 4 or, if Franchisor directs, to disconnect the numbers and/or listings and take down the domain names and websites;



16.1.6 Immediately vacate the Restaurant premises if Franchisor exercises its rights pursuant to the Lease Option Agreement attached as Attachment 3;

16.1.7 If directed by Franchisor, promptly make such changes and modifications to Franchisee's facility, and otherwise as Franchisor directs so as to effectively distinguish Franchisee's facility from any appearance as a System restaurant;

16.1.8 Promptly surrender all stationery, printed matter, signs, advertising materials and other items containing the Proprietary Marks as Franchisor directs and all items which are a part of the trade dress of the System;

16.1.9 Cease to hold itself out as Franchisor's franchisee;

16.1.10 Take such action as shall be necessary to amend or cancel any assumed name, business name or equivalent registration which contains any trade name or Proprietary Mark that Franchisor licensed to Franchisee and furnish Franchisor evidence satisfactory to Franchisor of compliance with this obligation within 30 calendar days after the termination, expiration or transfer of the Franchise;

16.1.11 Permit Franchisor to make final inspection of Franchisee's financial records, books, and other accounting records within 6 months after the effective date of termination, expiration, or transfer;

16.1.12 Comply with the post-termination covenants set forth in Section 17 hereof, all of which shall survive the transfer, termination or expiration of the Franchise; and

16.1.13 Cease to use in advertising or in any other manner, any methods, procedures or techniques associated with Franchisor or the System.

16.2 **Power of Attorney.** Franchisee hereby irrevocably appoints Franchisor as Franchisee's attorney-in-fact to execute in Franchisee's name and on Franchisee's behalf all documents necessary to discontinue Franchisee's use of the Proprietary Marks and the Confidential Information.

16.3 **Option to Purchase Personal Property.**

16.3.1 Upon the termination or expiration of the Franchise, Franchisor, or Franchisor's designee, shall have the right, but not the obligation, to be exercised by notice of intent to do so within 60 days after termination or expiration, to purchase any or all assets of the Restaurant, including furniture, fixtures, equipment, supplies, and other inventory, advertising materials, and all items bearing the Proprietary Marks, at Franchisee's cost or fair market value with no allowance for goodwill, whichever is less. If the parties cannot agree on fair market value within 120 days, the determination of an independent appraiser designated by Franchisor shall be binding. If Franchisor elects to exercise any option to purchase as herein provided, it shall have the right to set off all amounts due from Franchisee under this Agreement, if any, against any payment therefore and the cost of the appraisal, if any. All items to be purchased by Franchisor, if any, shall be free and clear of any and all liens, judgments, claims or the like. If Franchisor exercises Franchisor's option to purchase, pending the closing of such purchase, Franchisor has the right to appoint a manager to maintain operation of the Restaurant, or Franchisor may require that Franchisee close the Restaurant during such period without removing any assets. Franchisee is required to maintain in force the Lease for the Restaurant and all insurance policies required under this Agreement until the date of such closing. Franchisor has the unrestricted right to assign this option to purchase the assets of the Restaurant. Franchisor will be entitled to all customary warranties and representations in connection with Franchisor's purchase of Franchisee's property,

including, without limitation, representations and warranties as to ownership and condition of and title to the property; liens and encumbrances on the property; validity of contracts and agreements; and liabilities affecting the property, contingent or otherwise.

16.3.2 **Exclusions.** Franchisor may exclude from the personal property purchased hereunder cash or its equivalent and any equipment, signs, inventory, materials and supplies that are not reasonably necessary (in function or quality) to the Restaurant's operation or that Franchisor has not approved as meeting standards for the Restaurant.

16.4 **Damages, Costs, and Expenses.** In the event of termination of the Franchise for any default by Franchisee, Franchisee shall promptly pay to Franchisor all damages, costs and expenses, including reasonable attorneys' fees, incurred by Franchisor as a result of the default, which obligation shall give rise to and remain, until paid in full, a lien in favor of Franchisor against any and all of Franchisee's personal property, furnishings, equipment, signs, fixtures and inventory related to the operation of the Restaurant.

16.5 **Liquidated Damages.** In the event of a termination of the Franchise for any default by Franchisee, Franchisee shall pay Franchisor a lump sum payment (as liquidated damages and not as a penalty) in an amount equal to: (a) the average weekly Royalty Fee and Brand Fund Contribution payable by Franchisee over the twelve (12) month period immediately prior to the date of termination (or such shorter time period if the Franchised Business has been open less than twelve (12) months); (b) multiplied by the lesser of (i) thirty-six (36) months or (ii) the number of months then remaining in the then-current term of this Agreement. Franchisee acknowledges that a precise calculation of the full extent of the damages Franchisor will incur in the event of termination of this Agreement as a result of Franchisee's default is difficult to determine and that this lump sum payment is reasonable in light thereof. The liquidated damages payable by Franchisee pursuant to this Section 16.5 shall be in addition to all other amounts payable under this Agreement and shall not affect Franchisor's right to obtain appropriate injunctive relief and remedies pursuant to any other provision of this Agreement.

## 17. COVENANTS

Franchisee acknowledges that as a participant in the System, Franchisee will receive proprietary and confidential information and materials, trade secrets, and the unique methods, procedures and techniques which Franchisor has developed. Therefore, to protect Franchisor and all System franchisees, Franchisee agrees as follows:

17.1 **During the Term of the Franchise.** During the term of the Franchise, neither Franchisee, Franchisee's principals, nor any spouse or dependent of Franchisee or Franchisee's principals may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation:

17.1.1 Own, maintain, engage in, be employed by, lend money to, extend credit to or have any interest in any other business offering or licensing others to offer, in whole or in part, soups, bowls, sandwiches, salads, baked bread, or any other services and/or products similar to or offered by Zoup! restaurants ("Competing Business"), provided, however, that this Section does not apply to the operation of any other Zoup! restaurant pursuant to a valid franchise agreement with Franchisor;

17.1.2 Divert or attempt to divert any business or customer of the Restaurant to any Competing Business, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Proprietary Marks or the System.

## 17.2 After the Term of the Franchise.

17.2.1 For a period of 3 years after the expiration and non-renewal, transfer or termination of the Franchise, regardless of the cause, neither Franchisee, Franchisee's principals, nor any spouse or dependent of Franchisee or Franchisee's principals may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation enter into any business competing with Franchisor in granting franchises or licenses to operate businesses offering in whole or in part, soups, bowls, sandwiches, salads, baked bread or any other services and/or products similar to or offered by Zoup! restaurants at the time the Franchise is terminated or otherwise expires and is not renewed.

17.2.2 For a period of 3 years after the expiration, transfer or termination of the Franchise, regardless of the cause, neither Franchisee, Franchisee's principals, nor any spouse or dependent of Franchisee or Franchisee's principals may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation:

17.2.2.1 Own, maintain, engage in, lend money to, be employed by, or have any interest in any other business offering, in whole or in part, soups, bowls, sandwiches, salads, baked bread or any other services and/or products similar to or offered by Zoup! restaurants (i) at the Restaurant; (ii) within the Territory; or (iii) within a radius of 10 miles of the perimeter of: (a) the Territory being granted hereunder; (b) any other territory licensed by Franchisor as of the date of expiration or termination of the Franchise; or (c) any territory where a Zoup! restaurant is under development as of the date of expiration or termination of the Franchise; or

17.2.2.2 Solicit customers of the former Restaurant for any competitive business purpose or contact any of Franchisor's suppliers or vendors for any competitive business purpose.

17.3 **Intent and Enforcement.** It is the parties' intent that the provisions of this Section 17 be judicially enforced to the fullest extent permissible under applicable law. Accordingly, the parties agree that any reduction in scope or modification of any part of the non-competition provisions contained herein shall not render any other part unenforceable. In the event of the actual or threatened default of this Section 17 by Franchisee, any of Franchisee's principals, or any spouse or dependent of Franchisee or Franchisee's principals, Franchisor shall be entitled to an injunction restraining such person from any such actual or threatened default. Franchisee agrees that in the event of the actual or threatened default of this Section 17, Franchisor's harm will be irreparable, and that Franchisor has no adequate remedy at law to prevent such harm. Franchisee acknowledges and agrees on Franchisee's own behalf and on behalf of the persons who are liable under this Section 17 that each has previously worked or been gainfully employed in other careers and that the provisions of this Section 17 in no way prevent any such person from earning a living. Franchisee further acknowledges and agrees that the time limitation of this Section 17 shall be tolled during any default under this Section.

17.4 **Principals, Managers and Other Management Personnel.** Franchisee shall ensure that Franchisee's principals, Managers and other management personnel execute Confidentiality and Restrictive Covenant Agreements, in the form attached as Attachment 5 to this Agreement, or as Franchisor, in Franchisor's sole discretion, otherwise prescribes. On request, Franchisee must furnish Franchisor a copy of each executed agreement.

17.5 **No Defense.** Franchisee hereby agrees that the existence of any claim Franchisee may have against Franchisor, whether or not arising from this Agreement, shall not constitute a defense to Franchisor's enforcement of the covenants contained in this Section 17. Franchisee

agrees to pay all costs and expenses (including reasonable attorneys' fees) which Franchisor incurs in connection with the enforcement of this Section 17.

## **18. DISPUTE RESOLUTION**

18.1 **Choice of Law.** This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.

18.2 **Internal Dispute Resolution.** Franchisee must first bring any claim or dispute between Franchisee and Franchisor to Franchisor's President and/or Chief Executive Officer. Franchisee must exhaust this internal dispute resolution procedure before Franchisee may bring Franchisee's dispute before a third party. Failure to comply with this Section 18.2 will result in a breach of Franchisee's obligations under this Agreement and will subject Franchisor to irreparable harm, and, as a result, Franchisor will be entitled to seek injunctive relief pursuant to Section 18.7 below.

18.3 **Selection of Venue.** Nothing contained in this Agreement shall prevent Franchisor from applying to and obtaining from any court having jurisdiction a writ of attachment, a temporary injunction, a preliminary injunction and/or other emergency relief available to safeguard and protect Franchisor's interests. The parties expressly agree to the jurisdiction and venue of any court of general jurisdiction in Montgomery County, Pennsylvania, and the jurisdiction and venue of the United States District Court for the Eastern District of Pennsylvania. Franchisee acknowledges that this Agreement has been entered into in the Commonwealth of Pennsylvania, and that Franchisee is to receive valuable and continuing services emanating from Franchisor's operational personnel based in Pennsylvania, including but not limited to assistance, support and the development of the System. In recognition of such services and their origin, Franchisee hereby irrevocably consents to the personal jurisdiction of the state and federal courts of Pennsylvania set forth above.

18.4 **Reserved.**

18.5 **Prior Notice of Claims.** As a condition precedent to commencing an action for damages or for violation or default of this Agreement, Franchisee must notify Franchisor within 30 days after the occurrence of the violation or default, and failure to timely give such notice shall preclude any claim for damages.

18.6 **No Right to Offset.** Franchisee shall not withhold all or any part of any payment to Franchisor or any of its affiliates on the grounds of Franchisor's alleged nonperformance or as an offset against any amount Franchisor or any of Franchisor's affiliates allegedly may owe Franchisee under this Agreement or any related agreements.

18.7 **Injunctive Relief.** Nothing in this Agreement shall prevent Franchisor from seeking to obtain injunctive relief, without posting a bond, against threatened conduct that will cause Franchisor loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary and permanent injunctions. If injunctive relief is granted, Franchisee's only remedy will be the court's dissolution of the injunctive relief. If the injunctive relief was wrongfully issued, Franchisee expressly waives all claims for damages Franchisee incurred as a result of the wrongful issuance.

18.8 **Limitation of Action.** Franchisee further agrees that no cause of action arising out of or under this Agreement may be maintained by Franchisee against Franchisor unless brought before the expiration of 1 year after the act, transaction or occurrence upon which such action is based or the expiration of 1 year after the Franchisee becomes aware of facts or circumstances reasonably indicating that Franchisee may have a claim against the Franchisor, whichever occurs sooner, and that any action not brought within this period shall be barred as a claim, counterclaim,

defense or set-off. Franchisee hereby waives the right to obtain any remedy based on the alleged fraud, misrepresentation, or deceit by Franchisor, including, without limitation, rescission of this Agreement, in any arbitration, judicial, or other adjudicatory proceeding arising hereunder, except upon a ground expressly provided in this Agreement, or pursuant to any right expressly granted by any applicable statute expressly regulating the sale of franchises, or any regulation or rules promulgated thereunder.

**18.9 Waiver of Punitive Damages.** Franchisee hereby waives to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special or consequential damages (including, without limitation, lost profits) against Franchisor arising out of any cause whatsoever (whether such cause be based in contract, negligence, strict liability, other tort or otherwise), and agrees that in the event of a dispute, Franchisee's recovery is limited to actual damages. If any other term of the Franchise is found or determined to be unconscionable or unenforceable for any reason, the foregoing provisions shall continue in full force and effect, including, without limitation, the waiver of any right to claim any consequential damages.

**18.10 JURY TRIAL WAIVER. THE PARTIES HEREBY AGREE TO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR EQUITY, REGARDLESS OF WHICH PARTY BRINGS SUIT. THIS WAIVER SHALL APPLY TO ANY MATTER WHATSOEVER BETWEEN THE PARTIES WHICH ARISES OUT OF OR IS RELATED IN ANY WAY TO THIS AGREEMENT, THE PERFORMANCE OF EITHER PARTY, AND/OR FRANCHISEE'S PURCHASE FROM FRANCHISOR OF THE FRANCHISE AND/OR ANY ITEMS OR SERVICES.**

## **19. REPRESENTATIONS**

**19.1 No Authority.** NO SALESPERSON, REPRESENTATIVE OR OTHER PERSON HAS THE AUTHORITY TO BIND OR OBLIGATE FRANCHISOR EXCEPT FRANCHISOR'S AUTHORIZED OFFICER BY A WRITTEN DOCUMENT. FRANCHISEE ACKNOWLEDGES THAT NO REPRESENTATIONS, PROMISES, INDUCEMENTS, GUARANTEES OR WARRANTIES OF ANY KIND WERE MADE BY FRANCHISOR OR ON FRANCHISOR'S BEHALF WHICH HAVE LED FRANCHISEE TO ENTER INTO THIS AGREEMENT, OTHER THAN REPRESENTATIONS IN FRANCHISOR'S FRANCHISE DISCLOSURE DOCUMENT. FRANCHISEE UNDERSTANDS THAT WHETHER FRANCHISEE SUCCEEDS AS A FRANCHISEE IS DEPENDENT UPON FRANCHISEE'S EFFORTS, BUSINESS JUDGMENT, THE PERFORMANCE OF FRANCHISEE'S PERSONNEL, MARKET CONDITIONS AND VARIABLE FACTORS BEYOND FRANCHISOR'S CONTROL OR INFLUENCE. FRANCHISEE FURTHER UNDERSTANDS THAT SOME FRANCHISEES ARE MORE OR LESS SUCCESSFUL THAN OTHER FRANCHISEES, AND THAT FRANCHISOR HAS MADE NO REPRESENTATION THAT FRANCHISEE WILL DO AS WELL AS ANY OTHER FRANCHISEE.

**19.2 Receipt.** FRANCHISEE ACKNOWLEDGES RECEIPT OF FRANCHISOR'S FRANCHISE DISCLOSURE DOCUMENT AT LEAST 14 CALENDAR DAYS PRIOR TO THE EXECUTION OF THIS AGREEMENT. FRANCHISEE FURTHER ACKNOWLEDGES THAT IT RECEIVED A COMPLETED COPY OF THIS AGREEMENT, AND ALL RELATED AGREEMENTS ATTACHED TO FRANCHISOR'S FRANCHISE DISCLOSURE DOCUMENT, WITH ANY CHANGES TO SUCH AGREEMENTS UNILATERALLY AND MATERIALLY MADE BY FRANCHISOR AT LEAST 7 CALENDAR DAYS PRIOR TO THE DATE ON WHICH THIS AGREEMENT AND ALL RELATED AGREEMENTS WERE EXECUTED.

19.3 **Opportunity for Review by Franchisee's Advisors.** FRANCHISEE ACKNOWLEDGES THAT FRANCHISOR HAS RECOMMENDED, AND THAT FRANCHISEE HAS HAD THE OPPORTUNITY TO OBTAIN, REVIEW OF THIS AGREEMENT AND FRANCHISOR'S FRANCHISE DISCLOSURE DOCUMENT BY FRANCHISEE'S LAWYER, ACCOUNTANT OR OTHER BUSINESS ADVISOR PRIOR TO EXECUTION HEREOF.

19.4 **Execution of Agreement.** EACH OF THE UNDERSIGNED PARTIES WARRANTS THAT IT HAS THE FULL AUTHORITY TO SIGN AND EXECUTE THIS AGREEMENT. IF FRANCHISEE IS A PARTNERSHIP OR CORPORATION, THE PERSON EXECUTING THIS AGREEMENT ON BEHALF OF SUCH PARTNERSHIP OR CORPORATION WARRANTS TO FRANCHISOR, BOTH INDIVIDUALLY AND IN HIS OR HER CAPACITY AS PARTNER OR OFFICER, THAT ALL OF THE PARTNERS OF THE PARTNERSHIP OR ALL OF THE SHAREHOLDERS OF THE CORPORATION, AS APPLICABLE, HAVE READ AND APPROVED THIS AGREEMENT, INCLUDING ANY RESTRICTIONS WHICH THIS AGREEMENT PLACES UPON RIGHTS TO TRANSFER THEIR INTERESTS IN THE PARTNERSHIP OR CORPORATION.

## 20. SPOUSE GUARANTY

Each married principal of Franchisee shall cause his or her spouse to execute the Guaranty attached hereto as Attachment 2.

## 21. NOTICES

All notices and requests to be given under this Agreement are to be in writing, and delivered by either hand delivery or overnight mail by a recognized carrier offering a delivery receipt, to the following addresses (which may be changed by written notice):

Notices to Franchisor:            ZOUP FRANCHISING CO., LLC  
   3135 1<sup>st</sup> Avenue N., Suite 15459  
   St. Petersburg, FL 33733  
   Attn: President

Notices to Franchisee:            at the address specified on the Data Sheet

All notices to Franchisee required under this Section shall be sent to the Restaurant upon its opening. Franchisee shall promptly notify Franchisor in writing of any change of address of Franchisee or any Guarantor.

## 22. MISCELLANEOUS

22.1 **Entire Agreement.** This Agreement and its attachments are the entire agreement of the parties, superseding all prior written or oral agreements of the parties concerning the same subject matter, and superseding all prior written or oral representations made to Franchisee, except representations made to Franchisee in Franchisor's franchise disclosure document (including its exhibits and any updates or amendments). Nothing in this or in any related agreement is intended to disclaim the representations made in Franchisor's franchise disclosure document that was furnished to Franchisee. The terms of this Agreement are binding on the parties, and on their heirs, executors, administrators, successors and assigns. This Agreement may not be modified except by a written document signed by all parties.

22.2 **Construction of Language.** The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either party. All words in this Agreement

refer to whatever number or gender the context requires. If more than one party or person is referred to as Franchisee, their obligations and liabilities shall be joint and several. Headings are for reference purposes and do not control interpretation. Reference to “dependent” means any individual for whom Franchisee or Franchisee’s principal (i) provides financial support or (ii) may exercise control over such individual’s property or rights, at any time during any non-competition period. Reference to “Franchisee’s principals” means Franchisee’s owners, partners, officers, directors, shareholders, members and managers, as applicable. Reference to “Franchisor” and “Franchisee” include the party’s successors, assigns or transferees.

**22.3 Severability.** If any provision of this Agreement is deemed invalid or inoperative for any reason, that provision shall be deemed modified to the extent necessary to make it valid and operative or, if it cannot be so modified, it shall then be eliminated, and the remainder of this Agreement shall continue in full force and effect as if this Agreement had been signed with the invalid provision so modified or eliminated; provided, however, that if any provision of this Agreement relating to payments to Franchisor or any of its affiliates or protection of the Proprietary Marks or the Confidential Information, including the Operations Manuals and Franchisor’s other trade secrets, is declared invalid or unenforceable, then Franchisor at Franchisor’s option may terminate the Franchise immediately upon written notice to Franchisee.

**22.4 No Right to Offset.** Franchisee shall not withhold all or any part of any payment to Franchisor or Franchisor’s affiliates on the grounds of Franchisor’s alleged nonperformance or as an offset against any amount Franchisor may owe or allegedly owe Franchisee under this Agreement or any related agreements.

**22.5 State Law Applies.** If any provision of this Agreement, including but not limited to its provisions relating to transfer, renewal, termination, notice of termination, or cure rights, is inconsistent with any valid law or regulation of the state in which the Restaurant is located, then the valid law or regulation of that state applicable to the Franchise shall supersede any provision of this Agreement that is less favorable to Franchisee.

**22.6 Additional Documentation.** Franchisee must from time to time, subsequent to the date first set forth above, at Franchisor’s request and without further consideration, execute and deliver such other documentation or agreement and take such other action as Franchisor reasonably may require in order to effectuate the transactions contemplated herein. In the event that Franchisee fails to comply with the provisions of this Section, Franchisee hereby appoints Franchisor as Franchisee’s attorney-in-fact to execute any and all documents on Franchisee’s behalf, reasonably necessary to effectuate the transactions contemplated herein.

**22.7 Force Majeure.** Neither Franchisee, Franchisor, nor Franchisor’s affiliates will be liable for loss or damage or deemed to be in default of this Agreement or any related agreement if its failure to perform its obligations is not the fault nor within the reasonable control of the person, but results from, without limitation, fire, flood, natural disasters, acts of God, governmental acts or orders, or civil disorders. Any delay resulting from any such cause will extend the time of performance for the period of such delay or for such other reasonable period of time as the parties agree in writing or will excuse performance, in whole or in part, as Franchisor deems reasonable.

**22.8 Anti-Terrorist Activities.** Franchisee certifies that neither Franchisee, nor Franchisee’s owners, principals, employees or anyone associated with Franchisee is listed in the Annex to Executive Order 13224. (The Annex is available at <http://www.treasury.gov/offices/enforcement/ofac/sdn/index.shtml>). Franchisee agrees not to hire or have any dealings with a person listed in the Annex. Franchisee certifies that Franchisee has no knowledge or information that, if generally known, would result in Franchisee, Franchisee’s owners, principals, employees, or anyone associated with Franchisee being listed in the Annex to

Executive Order 13224. Franchisee agrees to comply with and/or assist Franchisor to the fullest extent possible in Franchisor's efforts to comply with the Anti-Terrorism Laws (as defined below). In connection with such compliance, Franchisee certifies, represents, and warrants that none of Franchisee's property or interests are subject to being "blocked" under any of the Anti-Terrorism Laws, and that Franchisee and Franchisee's principals are not otherwise in violation of any of the Anti-Terrorism Laws. Franchisee is solely responsible for ascertaining what actions must be taken by Franchisee to comply with all such Anti-Terrorism Laws, and Franchisee specifically acknowledges and agrees that Franchisee's indemnification obligation as provided in Section 13.2 of this Agreement pertains to Franchisee's obligations under this Section 22.8. Any misrepresentation by Franchisee under this Section or any violation of the Anti-Terrorism Laws by Franchisee or Franchisee's principals shall constitute grounds for immediate termination of the Franchise and any other agreement Franchisee has entered into with Franchisor or one of Franchisor's affiliates in accordance with the terms of Section 15.2 of this Agreement. As used herein, "Anti-Terrorism Laws" mean Executive Order 13224 issued by the President of the United States, the Terrorism Sanctions Regulations (Title 31, Part 595 of the U.S. Code of Federal Regulations), the Foreign Terrorist Organizations Sanctions Regulations (Title 31, Part 597 of the U.S. Code of Federal Regulations), the Cuban Assets Control Regulations (Title 31, Part 515 of the U.S. Code of Federal Regulations), the USA PATRIOT Act, and all other present and future federal, state and local laws, ordinances, regulations, policies lists and any other requirements of any Governmental Authority (including without limitation, the United States Department of Treasury Office of Foreign Assets Control) addressing or in any way relating to terrorist acts and acts of war.

22.9 **Attorneys' Fees.** If Franchisee is in default of any monetary or non-monetary material obligation under this Agreement or any related agreement between Franchisee and Franchisor and/or any of Franchisor's affiliates, and Franchisor engages an attorney to enforce Franchisor's rights (whether or not formal judicial proceedings are initiated), Franchisee must pay all reasonable attorneys' fees, court costs and litigation expenses Franchisor incurs. If Franchisee institutes any legal action against Franchisor in connection with this Agreement or any other Agreement, and Franchisee's claim in such action is denied or the action is dismissed, Franchisor is entitled to recover its reasonable attorneys' fees, and all other reasonable costs and expenses incurred in defending against same, and to have such an amount awarded as part of the judgment in the proceeding. In the event that only part of Franchisee's claims are denied, then Franchisor may recover its proportional attorneys' fees and costs in connection with such claims that were denied and/or dismissed.

## 23. ACKNOWLEDGMENTS

23.1 **Independent Investigation.** Franchisee acknowledges that Franchisee has conducted an independent investigation of the Restaurant contemplated by this Agreement and recognizes that it involves business risks which make the success of the venture largely dependent upon Franchisee's business abilities and efforts. Franchisee acknowledges that Franchisee has been given the opportunity to clarify any provision of this Agreement that Franchisee may not have initially understood and that Franchisor has advised Franchisee to have this Agreement reviewed by an attorney.

23.2 **No Guarantees of Earnings.** Franchisee understands that Franchisor, and that any of Franchisor's employees and representatives with whom Franchisee has met, have not made and are not making any guarantees as to the extent of Franchisee's success in the Restaurant, and have not and are not in any way representing or promising any specific amounts of earnings or profits in association with the Restaurant.



23.3 **Receipt of Franchisor's Franchise Disclosure Document.** Franchisee acknowledges that this Agreement and Franchisor's franchise disclosure document have been in Franchisee's possession for at least 14 calendar days before Franchisee signed this Agreement. Franchisee also acknowledges that Franchisee received a completed copy of this Agreement, and all related agreements attached to the Franchisor's franchise disclosure document, with any changes to such agreements unilaterally and materially made by Franchisor at least 7 calendar days prior to the date on which this Agreement and all related agreements were executed.

23.4 **No Personal Liability.** Franchisee agrees that fulfillment of any and all of Franchisor's obligations written in this Agreement or based on any oral communications which may be ruled to be binding in a Court of Law shall be Franchisor's sole responsibility, and that none of Franchisor's employees, representatives or other persons associated with Franchisor's franchise company shall be personally liable to Franchisee for any reason. Franchisee agrees that nothing that Franchisee believes Franchisee has been told by Franchisor or Franchisor's employees or representatives shall be binding unless it is written in this Agreement. This is an important part of this Agreement. Do not sign this Agreement if there is any question concerning its contents or any representations made.

**INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED EFFECTIVE THE DATE FIRST SET FORTH ABOVE.**

**ZOUP FRANCHISING CO., LLC**

**FRANCHISEE:**

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

\_\_\_\_\_

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

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

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

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

**PRINCIPAL:**

\_\_\_\_\_

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

**PRINCIPAL:**

\_\_\_\_\_

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

## ATTACHMENT 1

### SITE SELECTION ADDENDUM

Zoup Franchising Co., LLC (“we”) and \_\_\_\_\_ (“you”), have this day of \_\_\_\_\_, entered into a Franchise Agreement for the operation of a Zoup! restaurant using our Marks and System (the “Restaurant”), and desire to supplement its terms as set forth below. The parties therefore agree as follows:

1. Within 6 months after signing the Franchise Agreement (the “Site Confirmation Deadline”), you shall obtain a site, at your expense, which has been accepted by us, for the Restaurant. If you have not consummated a lease or purchase for the site within 90 days after receiving our acceptance, we have the right to withdraw such acceptance. Time is of the essence. The site shall be within the following geographic area:

\_\_\_\_\_ (the “Site Search Area”).

2. Your failure to obtain a site for the Restaurant which is acceptable to us by the Site Confirmation Deadline shall constitute a default under the Franchise Agreement and this Site Selection Addendum. Time is of the essence. Notwithstanding the foregoing, you may request a one-time extension of the Site Confirmation Deadline, which will be granted in our reasonable discretion, provided that (i) you make such request no later than fifteen (15) days prior to the expiration of the original Site Confirmation Deadline and (ii) you have paid to us a site extension fee of One Thousand Five Hundred Dollars (\$1,500), which is due and payable at the time you make the site extension request.

3. Recognizing that time is of the essence, within 45 days after you locate a proposed site for the Restaurant, you shall cause to be prepared, and submit to us, the plans for the Restaurant in accordance with Section 6.4 of the Franchise Agreement, which is incorporated herein by reference. We shall have 14 days after receipt of such information and materials from you to accept or reject, in our sole discretion, the site as a location for the Restaurant. No proposed site shall be deemed accepted unless we have expressly accepted it in writing.

4. We shall furnish to you such site selection guidelines, consultations and on-site evaluations as we deem advisable as part of our evaluation of your request for site acceptance. We shall not, however, provide an on-site evaluation for any proposed site prior to our receipt of the Site Plans and all other information and materials required by paragraph 3 above. If we deem on-site evaluation necessary and appropriate, we shall conduct up to 2 on-site evaluations at our cost. For each additional on-site evaluation (if any), you shall reimburse us for our reasonable expenses including, without limitation, the costs of travel, lodging, and meals.

5. If you will occupy the Restaurant premises under a lease, you shall comply with all obligations set forth in Section 7.1 and 7.3 of the Franchise Agreement before entering into any lease. Our approval of the Lease will be subject to the conditions specified in Section 7.1 and 7.3 of the Franchise Agreement.

6. You shall furnish us a copy of any executed lease and Lease Option Agreement in the form attached to the Franchise Agreement as Attachment 3, within 10 days after execution thereof.

7. After we have accepted a site for the Restaurant in writing and you have acquired the site in accordance with the terms of this Site Selection Addendum and the Franchise Agreement, the site shall constitute the Accepted Location referred to in Section 1 of the Franchise Agreement.

8. You hereby acknowledge and agree that our acceptance of a site does not constitute an assurance, representation or warranty of any kind, express or implied, as to the suitability of the site for the Restaurant or for any other purpose. Our acceptance of the site indicates only that we believe the site complies with acceptable minimum criteria established by us solely for our purposes as of the time of the evaluation. The parties to this Site Selection Addendum acknowledge that the application of criteria that have been effective with respect to other sites and premises may not be predictive of the potential for all sites and that, subsequent to our acceptance of a site, demographic and/or economic factors, such as competition from other similar businesses, included in or excluded from our criteria could change, thereby altering the potential of a site. Such factors are unpredictable and beyond our control. We shall not be responsible for the failure of a site accepted by us to meet your expectations as to revenue or operational criteria. You further acknowledge and agree that your acceptance of a Franchise for the operation of the Restaurant at the site is based on your own independent investigation of the suitability of the site.

9. This Site Selection Addendum constitutes an integral part of the Franchise Agreement between the parties, and the terms of this Site Selection Addendum shall be controlling with respect to the subject matter hereof. Except as modified or supplemented by this Site Selection Addendum, the terms of the Franchise Agreement are hereby ratified and confirmed.

The parties have duly executed this Site Selection Addendum on the day and year first above written.

**ZOUP FRANCHISING CO., LLC**

**FRANCHISEE/ENTITY:**

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

## ATTACHMENT 2

### SPOUSE GUARANTY

This Guaranty and Covenant (this “Guaranty”) is given by the undersigned (“Guarantor”) on \_\_\_\_\_, (the “Effective Date”) to Zoup Franchising Co., LLC, a Delaware a limited liability company (“Franchisor”), in order to induce Franchisor to enter into that certain Franchise Agreement dated on or about the Effective Date hereof (the “Franchise Agreement”) with \_\_\_\_\_, a(n) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ (collectively “Franchisee”).

Guarantor acknowledges that Guarantor is the spouse of Franchisee’s Principal, as that term is used in the Franchise Agreement.

Guarantor acknowledges that Guarantor has read the terms and conditions of the Franchise Agreement and acknowledges that the execution of this Guaranty is in partial consideration for, and a condition to the granting of, the rights granted in the Franchise Agreement to Franchisee, and that Franchisor would not have granted these rights without the execution of this Guaranty by Guarantor.

Guarantor hereby individually makes, agrees to be bound by, and agrees to perform, all of the monetary obligations and non-competition covenants and agreements of the Franchisee as set forth in the Franchise Agreement, including but not limited to, the covenants set forth in Section 5.1 and Article 17 of the Franchise Agreement (“Guaranteed Obligations”). Guarantor shall perform and/or make punctual payment to Franchisor of the Guaranteed Obligations in accordance with the terms of the Franchise Agreement or other applicable document forthwith upon demand by Franchisor.

This Guaranty is an absolute and unconditional continuing guaranty of payment and performance of the Guaranteed Obligations. This Guaranty shall not be discharged by renewal of any claims guaranteed by this instrument, change in ownership or control of the Franchisee entity, transfer of the Franchise Agreement, the suffering of any indulgence to any debtor, extension of time of payment thereof, nor the discharge of Franchisee by bankruptcy, operation of law or otherwise. Presentment, demand, protest, notice of protest and dishonor, notice of default or nonpayment and diligence in collecting any obligation under any agreement between Franchisee and Franchisor are each and all waived by Guarantor and/or acknowledged as inapplicable. Guarantor waives notice of amendment of any agreement between Franchisee and Franchisor and notice of demand for payment by Franchisee. Guarantor further agrees to be bound by any and all amendments and changes to any agreement between Franchisee and Franchisor.

Franchisor may pursue its rights against Guarantor without first exhausting its remedies against Franchisee and without joining any other guarantor hereto and no delay on the part of Franchisor in the exercise of any right or remedy shall operate as a waiver of such right or remedy, and no single or partial exercise by Franchisor of any right or remedy shall preclude the further exercise of such right or remedy.

If other guarantors have guaranteed any and or all of the Guaranteed Obligations, their liability shall be joint and several to that of Guarantor.

Until all of the Guaranteed Obligations have been paid in full and/or performed in full, Guarantor shall not have any right of subrogation, unless expressly given to Guarantor in writing by Franchisor.

All Franchisor's rights, powers and remedies hereunder and under any other agreement now or at any time hereafter in force between Franchisor and Guarantor shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to Franchisor by law.

Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective.

This Guaranty shall extend to and inure to the benefit of Franchisor and its successors and assigns and shall be binding on Guarantor and its successors and assigns.

Guarantor has signed this Guaranty as of the date set forth above.

GUARANTOR - SPOUSE OF FRANCHISEE'S PRINCIPAL:

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

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

**ATTACHMENT 3**

**LEASE OPTION AGREEMENT**

**FOR VALUE RECEIVED**, the undersigned \_\_\_\_\_ ("Assignor") hereby assigns and transfers to Zoup Franchising Co., LLC, a Delaware limited liability company with a notice address of 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, Florida, 33733 ("Assignee"), all of Assignor's right, title and interest as tenant in, to and under that certain lease, a copy of which shall be attached hereto (the "Lease") respecting premises commonly known as \_\_\_\_\_ . This Assignment is for collateral purposes only and except as specified herein, Assignee shall have no liability or obligation of any kind whatsoever arising from or in connection with this Assignment or the Lease unless Assignee takes possession of the premises demised by the Lease pursuant to the terms hereof and assumes the obligations of Assignor thereunder.

Assignor represents and warrants to Assignee that Assignor has full power and authority to so assign the Lease and Assignor's interest therein and that Assignor has not previously assigned or transferred, and is not obligated to assign or transfer, any of Assignor's interest in the Lease or the premises demised thereby.

Upon a default by Assignor under the Lease or under the franchise agreement for a Zoup! Restaurant between Assignee and Assignor (the "Franchise Agreement"), or in the event of a default by Assignor under any document or instrument securing the Franchise Agreement, Assignee shall have the right and is hereby empowered to take possession of the Premises demised by the Lease, expel Assignor therefrom, and, in such event, Assignor shall have no further right, title or interest in the Lease.

Assignor agrees that it will not suffer or permit any surrender, termination, amendment or modification of the Lease without the prior written consent of Assignee. Throughout the term of the Franchise Agreement and any renewals thereto, Assignor agrees that it shall elect and exercise all options to extend the term of or renew the Lease not less than thirty (30) days prior to the last day that the option must be exercised, unless Assignee otherwise agrees in writing. If Assignee does not otherwise agree in writing, and upon failure of Assignor to so elect to extend or renew the Lease as aforesaid, Assignor hereby appoints Assignee as its true and lawful attorney-in-fact to exercise such extension or renewal options in the name, place and stead of Assignor for the purpose of effecting such extension or renewal.

ASSIGNOR:

DATED: \_\_\_\_\_

\_\_\_\_\_

DATED: \_\_\_\_\_

\_\_\_\_\_

**CONSENT AND AGREEMENT OF LANDLORD**

to that Conditional Assignment of Lease from \_\_\_\_\_ (Assignor) to Zoup Franchising Co., LLC (Assignee) dated \_\_\_\_\_ for the property known as \_\_\_\_\_.

The undersigned Landlord under the aforescribed Lease further hereby:

- (a) Agrees to notify Assignee in writing of and upon the failure of Assignor to cure any default by Assignor under the Lease;
- (b) Agrees that Assignee shall have the right, but shall not be obligated, to cure any default by Assignor under the Lease within 30 days after delivery by Landlord of notice thereof in accordance with paragraph (a) above;
- (c) Consents to the foregoing Conditional Assignment and agrees that if Assignee takes possession of the Premises demised by the Lease and confirms to Landlord the assumption of the Lease by Assignee as tenant thereunder, Landlord shall recognize Assignee as tenant under the Lease, provided that Assignee cures within the 30-day period the non-monetary defaults, if any, of Assignor under the Lease;
- (d) Agrees that Assignee may further assign the Lease to a person, firm or corporation who shall agree to assume the tenant's obligations under the Lease and who is reasonably acceptable to Landlord and upon such assignment Assignee shall have no further liability or obligation under the Lease as assignee, tenant or otherwise.
- (e) Permits Assignee to enter upon the Premises without being guilty of trespass or any other crime or tort to de-identify the Premises as a Zoup! Restaurant if Tenant fails to do so following termination of the Franchise Agreement or Lease, provided that Assignee shall repair any damage caused thereby.

DATED: \_\_\_\_\_

LANDLORD:

\_\_\_\_\_  
\_\_\_\_\_

**ATTACHMENT 4**

**CONDITIONAL ASSIGNMENT  
OF FRANCHISEE’S TELEPHONE NUMBERS, DOMAIN NAMES AND WEBSITES**

1. \_\_\_\_\_, doing business at \_\_\_\_\_ (“Assignor”), in exchange for valuable consideration provided by Zoup Franchising Co., LLC (“Assignee”), receipt of which is hereby acknowledged, hereby conditionally assigns to Assignee all telephone numbers and telephone listings, domain names, if any, and websites, if any, utilized by Assignor in the operation of its Restaurant at Assignor’s above-referenced address. The telephone and fax numbers and the domain names and websites are as follows:

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Domain Name: \_\_\_\_\_ Domain Name Registrar: \_\_\_\_\_

Other Related Domain Names (i.e., .com, .net, .biz, etc.) \_\_\_\_\_

Website: \_\_\_\_\_

Website Host (i.e., “Go Daddy”, “Network Solutions”) \_\_\_\_\_

2. The conditional assignment will become effective automatically upon termination of Assignor’s franchise. Upon the occurrence of that condition, Assignor must do all things required by the telephone company and internet service provider to assure the effectiveness of the assignment of telephone numbers and domain names and websites, as applicable, as if the Assignee had been originally issued such telephone numbers, telephone listings, domain names, and websites and the usage thereof.

3. Assignor agrees to pay the telephone company and any internet service provider on or before the effective date of assignment all amounts owed for the use of the telephone numbers, telephone listings, domain names and websites, including, without limitation, Yellow Pages or internet advertising. Assignor further agrees to indemnify Assignee for any sums Assignee must pay the telephone company and internet service provider to effectuate this assignment, and agrees to fully cooperate with the telephone company, any internet service provider and Assignee in effectuating this assignment.

ASSIGNOR:

BY: \_\_\_\_\_

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

TITLE: \_\_\_\_\_

ASSIGNEE:

Zoup Franchising Co., LLC

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

TITLE: \_\_\_\_\_



**ATTACHMENT 5**

**CONFIDENTIALITY AND RESTRICTIVE COVENANT AGREEMENT**  
*(For management personnel of Franchisee)*

In consideration of my being a \_\_\_\_\_ of \_\_\_\_\_ (the “Franchisee”), and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, I hereby acknowledge and agree that the Franchisee, doing business as \_\_\_\_\_, has acquired the right and franchise from Zoup Franchising Co., LLC (the “Company”) to establish and operate a Zoup! restaurant (the “Restaurant”) and the right to use in the operation of the Restaurant the Company’s trade names, trademarks and service marks (the “Proprietary Marks”), and the Company’s unique and distinctive format and system relating to the establishment and operation of Zoup! restaurants (the “System”), as they may be changed, improved and further developed from time to time in the Company’s sole discretion, only at the following authorized and accepted location: \_\_\_\_\_ (the “Restaurant Premises”).

1. The Company possesses certain proprietary and confidential information relating to the operation of the System, which includes certain trade secrets, recipes, copyrighted materials, methods, techniques and know-how (the “Confidential Information”).

2. Any and all information, knowledge, know-how, and techniques which the Company specifically designates as confidential shall be deemed to be Confidential Information for purposes of this Agreement.

3. As \_\_\_\_\_ of the Franchisee, the Company and Franchisee will disclose the Confidential Information to me in furnishing to me the training program and subsequent ongoing training, the Zoup! Confidential Operations Manuals and other written materials (collectively, the “Operations Manuals”) and other general assistance during the term of the Franchise.

4. I will not acquire any interest in the Confidential Information, other than the right to utilize it in the operation of the Restaurant during the term hereof, and I agree that my use or duplication of the Confidential Information for any use outside the System would constitute an unfair method of competition.

5. The Confidential Information is proprietary, involves trade secrets of the Company, and is disclosed to me solely on the condition that I agree, and I do hereby agree, that I shall hold in strict confidence all Confidential Information and all other information designated by the Company as confidential. Unless the Company otherwise agrees in writing, I will disclose and/or use the Confidential Information only in connection with my duties as \_\_\_\_\_ of the Franchisee, and will continue not to disclose any such information even after I cease to be in that position and will not use any such information even after I cease to be in that position unless I can demonstrate that such information has become generally known or easily accessible other than by the default of an obligation of Franchisee under the Franchise Agreement.

6. Except as otherwise approved in writing by the Company, I shall not, while in my position with the Franchisee, for myself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation or limited liability company, own, maintain, engage in, be employed by, or have any interest in any other business which operates or licenses any other retail restaurant which sells soups, bowls, sandwiches, salads, baked bread, or related food and beverage items, except a Zoup! restaurant operating under the System and Proprietary Marks.

7. I agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which the Company is a party, I expressly agree to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement.

8. I understand and acknowledge that the Company shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in this Agreement, or any portion thereof, without my consent, effective immediately upon receipt by me of written notice thereof; and I agree to comply forthwith with any covenant as so modified.

9. The Company is a third-party beneficiary of this Agreement and may enforce it, solely and/or jointly with the Franchisee. I am aware that my violation of this Agreement will cause the Company and/or the Franchisee irreparable harm; therefore, I acknowledge and agree that the Franchisee and/or the Company may apply for the issuance of an injunction preventing me from violating this Agreement, and I agree to pay the Franchisee and the Company all the costs it/they incur(s), including, without limitation, legal fees and expenses, if this Agreement is enforced against me. Due to the importance of this Agreement to the Franchisee and the Company, any claim I have against the Franchisee or the Company is a separate matter and does not entitle me to violate this Agreement, or justify any violation of this Agreement.

10. This Agreement shall be construed under the laws of the Commonwealth of Pennsylvania. The only way this Agreement can be changed is in writing signed by both the Franchisee and me.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACKNOWLEDGED BY FRANCHISEE**

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

ATTACHMENT 6

**ELECTRONIC FUNDS WITHDRAWAL AUTHORIZATION**

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

ABA#: \_\_\_\_\_

Acct. No.: \_\_\_\_\_

Acct. Name: \_\_\_\_\_

Effective as of the date of the signature below, \_\_\_\_\_ hereby authorizes Zoup Franchising Co., LLC (“Company”) or its designee to withdraw funds from the above referenced bank account, electronically or otherwise, to make the following payments to Company under the Franchise Agreement for the restaurant located at \_\_\_\_\_: (1) all royalty fees; (2) all advertising fees; and (3) all other amounts due under the Franchise Agreement or any other agreement between Company and \_\_\_\_\_ or as directed by Company in its then-current Operations Manuals. Such withdrawals shall occur on a weekly basis, or on such other schedule as Company shall specify in writing. Company is also authorized to deposit funds into the above-referenced account, electronically or otherwise. This authorization shall remain in full force and effect until terminated in writing by Company. \_\_\_\_\_ shall provide Company, in conjunction with this authorization, a voided check from the above-referenced account.

AGREED:

FRANCHISEE

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

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

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

**EXHIBIT B  
FRANCHISEES**

**OPEN AND OPERATING STORES AS OF SEPTEMBER 25, 2022**

<b>Contact</b>	<b>Franchisee</b>	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>	<b>Phone</b>
<b>COLORADO</b>						
Timothy J. McCartney	McSOUP INC	1254 Interquest Pkwy.	Colorado Springs	CO	80921	719-359-4400
Robin & Michelle Valois	Soup 4 Him LLC	1550 Court Pl.	Denver	CO	80202	303-656-6575
Rob Valois	Robin Paul Valois	11169 E. I-25 Frontage Road CO	Firestone	CO	80504	720-689-2200
Lacie D. Fitzpatrick	eatZ!, LLC	644 North Ave., Unit 1	Grand Junction	CO	81501	970-361-3340
<b>DELAWARE</b>						
Eric A. & Dia M. Ames	MACK Enterprises, LLC	2136 Fashion Ctr. Blvd.	Newark	DE	19702	303-273-8400
Eric A. & Dia M. Ames	Ames Enterprise, Inc.	4715 Kirkwood Hwy.	Wilmington	DE	19808	302-379-3171
<b>ILLINOIS</b>						
Moc Jeong	Soup Adams 167 INC	62 W. Adams St.	Chicago	IL	60603	312-656-5810
Steve & Patti Bunch	Bunch Family Enterprises Inc.	3428 Broadway	Quincy	IL	62301	217-577-2020
James E. Kemp & Maria P Avramopouloas-Kemp	Sophia James Corporation	1001 W. 75th St., Ste. 189C	Woodridge	IL	60517	630-324-9999
<b>INDIANA</b>						
John 6:35 LLC	Thomas & Julie Brown	12491 E 136th St	Fishers	IN	46038	317-828-4318
Kevin Lee Pearson	K & S Soup Company, Inc.	4334 Grape Rd.	Mishawaka	IN	46545	574-344-4100

<b>KENTUCKY</b>						
James & Pat Cowley	JPI Cowley, LLC	7753 Mall Rd Suite A	Florence	KY	41042	859-212-9933
<b>MICHIGAN</b>						
Ray Neatfeld, Marvin Veltkamp, Matt Rzepka	RAMAMA, LLC	2619 Plymouth Road	Ann Arbor	MI	48105	734-997-9070
Earl & Joi Harris	KKJ Restaurant Group	42983 Woodward Ave	Bloomfield	MI	48304	248-633-2800
Vincent & Tonisha Bryant	Bryant Drive Investments, Inc.	25254 Evergreen Rd.	Southfield	MI	48075	248-849-9898
Grant & Amy Winkelman	SOUPERGROU P, INC.	4021 Cascade Rd., S.E.	Grand Rapids	MI	49546	616-956-3052
Grant & Amy Winkelman	SOUPERPOWE R, INC.	25 Michigan St., NE	Grand Rapids	MI	49503	616-608-1400
Grant & Amy Winkelman	SOUPERGROU P, INC	5783 Bryon Center Ave., SW	Wyoming	MI	49519	616-261-8022
Heather & Ludwig Gonzalez	HEB & LUD LLC	3435 Westshore Dr.	Holland	MI	49424	616-738-9687
Marvin Veltkamp, Raymond Neatfeld & Matthew Rzepka	RAMAMA, LLC	214 S. Washington Sq.	Lansing	MI	48933	517-367-7400
Greg & Janet Coppola	Idlewydle Enterprises	20065 Haggerty Rd.	Northville	MI	48167	248-374-1000
Gopal Dave & Sameer Patel	JRJ Enterprise, Inc.	27292 Novi Rd., FC 109	Novi	MI	48377	248-468-0350
Dorethy Robinson	DLRBUSINESS SOLUTIONS, LLC	47996 Grand River Ave.	Novi	MI	48375	248-449-5025
Ray Neatfeld, Marvin Veltkamp, Matt Rzepka	RAMAMA, LLC	6749 S. Westnedge Ave., Ste. J	Portage	MI	49002	269-366-3500
Julie & James Thomsen	JT Enterprises, INC	119 Main St.	St. Joseph	MI	49085	219-928-8599
<b>NEBRASKA</b>						
Jeffery Hansen	JTH Ventures, LLC	1917 South 67th ST.	Omaha	NE	68106	531-466-5567
<b>NEW YORK</b>						
Rohan Sivananthan & Rathini Rohan	NIVESH R, LLC	3217 Southwestern Blvd., Ste. E	Orchard Park	NY	14127	716-508-2500
<b>OHIO</b>						

Paul E. & Maureen M. Harris	HRG2, Inc.	3900 Medina Rd., Ste. W	Akron	OH	44333	330-622-4300
Ray Neatfeld, Marvin Veltkamp, Matt Rzepka	RAMAMA, LLC	35918 Detroit Rd.	Avon	OH	44011	440-695-3939
Tim Osborn & Shane McRoy	Great Dining Brands, LLC	690 Eastgate South Dr., Ste. 200	Cincinnati	OH	45245	513-909-1700
Tommy E Dailey & Sung Jin Pak	TASTY MAIN LLC	41 S. High St.	Columbus	OH	43215	614-405-7800
Tommy E Dailey & Sung Jin Pak	TASTY MAIN LLC	155 W. Nationwide Blvd., Ste. 175A	Columbus	OH	43215	614-607-5600
Tommy E Dailey & Sung Jin Pak	TASTY MAIN LLC	1543 Lennox Town Ln.	Columbus	OH	43212	614-942-3800
Treva L. James D. Weaver	J D Weaver, LLC	4189 Weaverton Lane	Columbus	OH	43212	614-493-2300
Manish Kapur & Rebecca A. Kapur	MKRK, LLC	6901 Rockside Rd.	Independence	OH	44131	216-328-9300
Mike Haskins	MDH Endeavors, LLC	310 West Dussel Dr.	Maumee	OH	43537	419-724-9687
Jamie C. Buzzanca	KATJAM Enterprises, LLC	7327 Mentor Ave.	Mentor	OH	44060	440-701-4110
William Horton	JMJWV Enterprises, LLC	4898 Portage St., NW	North Canton	OH	44720	330-433-4090
William Horton	JMJWV Enterprises, LLC	30050 Aurora Rd.	Solon	OH	44139	440-349-0020
Ray Neatfeld, Marvin Veltkamp, Matt Rzepka	RAMAMA, LLC	21619 Center Ridge Rd.	Rockey River	OH	44116	440-657-3200
Tom Dailey & Sung Pak	TASTY MAIN LLC	4971 Tuttle Crossing Blvd.	Columbus	OH	43016	614-721-1771
Paul E. & Maureen M. Harris	HRG 3, Inc.	13957 Cedar Rd.	South Euclid	OH	44118	216-430-0880
Marvin Veltkamp, Raymond Neatfeld & Matthew Rzepka	RAMAMA VIII, LLC	4204 W. Sylvania Ave., Ste. 104	Toledo	OH	43623	419-481-8700
Jim & Treva L. Weaver	J D Weaver, LLC	522 Polaris Pkwy.	Westerville	OH	43082	614-212-2100

Manish Walia Ramesh C. Arora Rachna Walia	Imaginarium Goods, LLC	3991 Burbank Rd.	Wooster	OH	44691	330-439-5757
Hope Fosseca	Fossoupca, Inc.	1315 Boardman- Canfield Road	Boardman	OH	44512	(330) 333-2900
Ray Neatfeld, Marvin Veltkamp, Matt Rzepka	RAMAMA, LLC	7080 Engle Rd., Ste. C	Middleburg Heights	OH	44130	440-345-9090
William Horton	JMJWV Enterprises, LLC	4025G Richmond Rd.	Warrensville Heights	OH	44122	216-365-7210
<b>PENNSYLVANIA</b>						
Mike Kita & Wangdali Bacdayan	Trident Goals 184 LLC	1900 Main St., Ste. 111	Canonsburg	PA	15317	724-416-9500
Julie & Paul Diaz	JPD MANAGEMENT, LLC	500 Broad St., Ste. 1	Collegeville	PA	19426	610-409-6100
Dan W. London	C&D Restaurants, LLC	470 W. Lincoln, Hwy., Unit 444	Exton	PA	19341	610-772-0616
Julie & Paul Diaz	JDP Management, LLC	650 Carnegie Blvd. Suite 145	Malvern	PA	19355	610-249-9998
Richard J. Cagley	L R&J Holdings, Inc.	1137 Freeport Rd.	Pittsburgh	PA	15238	412-799-6464
Dean Evers	EVERS HOLDINGS GROUP, LLC	181 Old Mill Blvd., Ste. 102	Pittsburgh	PA	15301	814-427-8200
Dean James Evers & Antoinette Jean Evers	Bryier DAE LLC	1936 Park Manor Blvd.	Robinson	PA	15205	412-646-6006
Julie & Paul Diaz	JPD MANAGEMENT, LLC	760 Woodland Rd.	Wyomissing	PA	19610	610-372-6717
<b>SOUTH DAKOTA</b>						
Anna Clarissa Miranda- Santos	Prairie Soup, LLC	2802 W. 41st St.	Sioux Falls	SD	57105	617-953-3436
<b>VIRGINIA</b>						
Mayur Jayant Udeshi & Khushboo Sharad Lotia	AKS Enterprises, LLC	21435 Epicerie Plaza, Ste. 185	Sterling	VA	20164	571-376-2200
Karl & Debbie Morton	Damton Enterprises, LLC	1909 Landstown Centre Way, Unit 160	Virginia Beach	VA	23456	757-410-2446
<b>CANADA</b>						

David Henrique Kroeker	Souper Dave Inc.	561 Hespeler Rd., Unit 19	Cambridge	ON	N1R 6J4	519-241-4139
Samuel G. Tenizo	Tenizo Ltd.	5083 Dixie Rd., Unit D6	Mississauga	ON	L5M 7V7	905-286-4705
Payal Patel, Jugal Chokshi, Seema Patel	JP's Inc, Ont. Corp. No. 002740848	200 Front St., West, Unit F010	Toronto	ON	M5V 3K2	416-351-9687

**SIGNED BUT NOT YET OPEN AS OF SEPTEMBER 25, 2022**

Franchisee	Address	Telephone
Ray Neatfeld	Westlake, OH	269-506-0989
Karl Morton	Norfolk, VA	757-435-1062
Ali Shaukat	Newmarket, Ontario	905-868-8005



## EXHIBIT C

### FORMER FRANCHISEES

Franchisees that had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement during the most recently completed fiscal year or has not communicated with the franchisor within the 10 weeks preceding the Issuance Date of this Disclosure Document:

#### Transfers:

Mike Haskins  
MDH Endeavors  
4204 W. Sylvania Ave., Ste. 104  
Toledo, OH 43623  
419-481-8700

Gopal Dave & Sameer Patel  
47996 GR Enterprise, Inc.  
47996 Grand River Ave.  
Novi MI, 48375  
248-449-5025

#### Closed Stores:

Tom & Julie Brown  
John 6:35 LLC  
1430 West Carmel Drive  
Carmel, IN 46032  
317-810-9800

Clinton & Charmayne Fleming  
Glassysea, Inc.  
120 Cedar Grove Lane  
Somerset, NJ 08873  
201-401-5741

Julie & Paul Diaz  
JPD Management, LLC  
359 Park City Center  
Lancaster, PA 17601  
717-553-7020

#### Reacquired by Franchisor:

None were reacquired by Franchisor

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

## EXHIBIT D

### ZOUP! OPERATIONS MANUAL

#### TABLE OF CONTENTS

<b><u>Description</u></b>	<b><u>Number of Pages</u></b>
Build Your Team Guide	
• Hiring	8
• Training Great Employees	9
• Creating an Employee Manual	1
• Continued Coaching on Culture	12
Management Functions	
• Operations	14
• Store Management Functions	14
Product Ordering Guide	9
Safety Manual	
• Manager Food Safety	36
User Guides	
• POS (Brink) User Guide	39
• Inventory Management (Data Central) User Guide	35
• Online Ordering and Catering System (Monkey Media) User Guide	19
• BOH Technology (Retherm) User Guide	26
• Labor Management (Z!Net) User Guide	43
• Digital Training Platform (Z!Train LMS) User Guide	20
Four Walls Marketing	5
Catering	
• Catering Process	5
• Prospecting	12
Maintenance Manual	
• Maintenance	34
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**EXHIBIT E**  
**FINANCIAL STATEMENTS**

# **RESTAURANT CO., LLC dba WOWorks**

*Consolidated Financial Statements  
September 25, 2022 and September 26, 2021*

# RESTAURANT CO., LLC dba WOWorks

*Table of Contents*  
*September 25, 2022*

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INDEPENDENT AUDITORS' REPORT .....	1-2
CONSOLIDATED FINANCIAL STATEMENTS	
Balance Sheets .....	3
Statements of Operations and Changes in Member's Equity .....	4
Statements of Cash Flows .....	5-6
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS.....	7-24

## INDEPENDENT AUDITORS' REPORT

To the Board of Directors Restaurant Co., LLC dba WOWorks  
St. Petersburg, Florida

### Opinion

We have audited the accompanying consolidated financial statements of Restaurant Co., LLC (a Delaware corporation) dba WOWorks, and its Subsidiaries (collectively known hereafter as the "Company"), which comprise the consolidated balance sheet as of September 25, 2022, and the related consolidated statements of operations and changes in member's equity, and cash flows for the year then ended, and the related notes to the consolidated financial statements (collectively known hereafter as the "financial statements").

In our opinion, the 2022 financial statements referred to above present fairly, in all material respects, the financial position of the Company as of September 25, 2022, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

### Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Prior Period Financial Statements

The financial statements of the Company as of September 26, 2021, were audited by other auditors whose report dated January 13, 2022, expressed an unmodified opinion on those statements.

### Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

### Auditors' Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

*Zapken + Loeb LLP*

Zapken & Loeb, LLP

Woodbury, New York  
April 1, 2023

# RESTAURANT CO., LLC dba WOWorks

## Consolidated Balance Sheets

	<i>September 25, 2022</i>	<i>September 26, 2021</i>
<b>ASSETS</b>		
<b>Current Assets</b>		
Cash and cash equivalents	\$ 1,781,911	\$ 1,691,192
Accounts receivable, net of allowance for doubtful accounts	2,285,915	1,477,220
Inventory	170,862	119,773
Prepaid expenses	378,376	611,798
Other current assets	96,074	70,826
<b>Total Current Assets</b>	<b>4,713,138</b>	<b>3,970,809</b>
<b>Property and Equipment</b> - net	<b>3,824,611</b>	<b>3,110,736</b>
<b>Other Assets</b>		
Identifiable intangible assets, net of accumulated amortization	27,146,225	17,845,348
Goodwill, net of accumulated amortization	6,354,452	709,872
Other long-term assets	231,236	228,898
<b>TOTAL ASSETS</b>	<b>\$ 42,269,662</b>	<b>\$ 25,865,663</b>
<b>LIABILITIES AND MEMBER'S EQUITY</b>		
<b>Current Liabilities</b>		
Accounts payable and accrued expenses	\$ 3,026,189	\$ 2,613,530
Deferred revenue	1,180,297	1,023,466
Term debt, current	280,000	-
Promissory notes, current	297,632	300,008
Capital lease liability, current	730,158	566,562
Other liabilities, current	635,258	626,193
<b>Total Current Liabilities</b>	<b>6,149,534</b>	<b>5,129,759</b>
<b>Long-Term Liabilities</b>		
Term debt, net of current portion and unamortized deferred finance costs	26,366,926	13,250,000
Promissory notes, net of current portion	5,232,941	336,255
Capital lease liability, net of current portion	890,962	999,083
Other liabilities, net of current portion	429,408	492,383
<b>Total Long-Term Liabilities</b>	<b>32,920,237</b>	<b>15,077,721</b>
<b>Member's Equity</b>	<b>3,199,891</b>	<b>5,658,183</b>
<b>TOTAL LIABILITIES AND MEMBER'S EQUITY</b>	<b>\$ 42,269,662</b>	<b>\$ 25,865,663</b>

See notes to consolidated financial statements.



# RESTAURANT CO., LLC dba WOWorks

## Consolidated Statements of Operations and Changes in Member's Equity

	<i>For the Year Ended</i>	
	<i>September 25, 2022</i>	<i>September 26, 2021</i>
<b>Revenue</b>		
Franchise and royalty	\$ 7,593,742	\$ 5,319,205
Food and beverage	11,132,841	6,925,861
Support and marketing fees	6,728,593	4,644,218
Rental income from subleases	440,348	389,948
	<u>25,895,524</u>	<u>17,279,232</u>
<b>Operating Costs</b>		
Selling, general and administrative	13,139,337	9,628,087
Food and beverage	3,793,969	2,115,453
Restaurant operating	5,510,905	3,218,824
Rental expense from subleases	440,348	389,948
Depreciation and amortization	1,487,050	729,669
	<u>24,371,609</u>	<u>16,081,981</u>
<b>Income Before Other Expenses and Provision for Income Tax</b>	<u>1,523,915</u>	<u>1,197,251</u>
<b>Other (Income) Expenses</b>		
Interest expense	1,991,298	525,078
Loss on property closures	671,924	1,225,000
Acquisition expenses	1,023,000	1,071,805
Grant income - Paycheck Protection Program	-	(1,019,260)
Gain on bargain purchase of Garbanzo, LLC and Frutta Bowls LLC	-	(2,178,691)
Management fees	250,000	250,000
Other expense	3,402	15,148
	<u>3,939,624</u>	<u>(110,920)</u>
<b>(Loss) Income Before Provision for Income Tax</b>	<u>(2,415,709)</u>	<u>1,308,171</u>
<b>Provision for Income Tax</b>	<u>42,583</u>	<u>5,223</u>
<b>Net (Loss) Income</b>	<u>(2,458,292)</u>	<u>1,302,948</u>
<b>Member's Equity at Fiscal Year Beginning</b>	<u>5,658,183</u>	<u>1,855,235</u>
<b>Contributions from Member</b>	<u>-</u>	<u>2,500,000</u>
<b>Member's Equity at Fiscal Year End</b>	<u>\$ 3,199,891</u>	<u>\$ 5,658,183</u>

See notes to consolidated financial statements.

# RESTAURANT CO., LLC dba WOWorks

## Consolidated Statements of Cash Flows

Page 1 of 2

	<i>For the Year Ended</i>	
	<u>September 25, 2022</u>	<u>September 26, 2021</u>
<b>Cash Flows from Operating Activities</b>		
Net (loss) income	\$ (2,458,292)	\$ 1,302,948
Adjustments to reconcile net (loss) income to net cash (used in) provided by operating activities:		
Bargain purchase gain on acquisitions	-	(2,178,691)
Forgiveness of Paycheck Protection Program	-	(1,019,260)
Depreciation and amortization	1,487,050	729,669
Amortization deferred financing costs	165,462	-
Loss on property closures	671,924	1,225,000
Changes in assets and liabilities:		
<i>(Increase) decrease in:</i>		
Accounts receivable	(808,695)	(699,314)
Inventory	(115,833)	(56,841)
Prepaid expenses	192,358	53,048
Other current assets	50,101	(364)
Other long-term assets	(2,338)	(147,527)
Accounts payable and accrued expenses	621,653	1,061,757
Deferred revenue	156,831	(136,024)
Other long-term liabilities	(23,964)	47,091
Net cash flows (used in) provided by operating activities	<u>(63,743)</u>	<u>181,492</u>
<b>Cash Flows from Investing Activities</b>		
Payments for acquisitions (Note 8)	(16,673,586)	(1,629,771)
Proceeds from the sales of property and equipment	1,940	2,088
Purchases of property and equipment	(541,944)	(956,900)
Net cash flows used in investing activities	<u>(17,213,590)</u>	<u>(2,584,583)</u>
<b>Cash Flows from Financing Activities</b>		
Borrowings of term debt	28,000,000	-
Repayments of term debt	(13,250,000)	-
Payment of deferred financing costs	(1,518,536)	-
Principal payments on term debt	-	(1,194)
Principal payments on capital lease liability	(457,722)	(308,424)
Proceeds from sale-leaseback transactions	-	300,792
Principal increases (payments) on promissory notes	4,594,310	(38,737)
Proceeds from Paycheck Protection Program	-	1,019,260
Contributions from member	-	2,500,000
Net cash flows provided by financing activities	<u>17,368,052</u>	<u>3,471,697</u>

Continued

# RESTAURANT CO., LLC

Consolidated Statements of Cash Flows

Page 2 of 2

Continued

	<i>For the Year Ended</i>	
	<u>September 25, 2022</u>	<u>September 26, 2021</u>
<b>Net Increase in Cash and Cash Equivalents</b>	<b>90,719</b>	\$ 1,068,606
<b>Cash and Cash Equivalents</b> - beginning	<u>1,691,192</u>	<u>622,586</u>
<b>Cash and Cash Equivalents</b> - ending	<u><u>1,781,911</u></u>	<u><u>\$ 1,691,192</u></u>
<b>Supplemental Disclosures of Cash Flow Information</b>		
<i>Cash paid for:</i>		
Interest	<u><u>\$ 1,554,888</u></u>	<u><u>\$ 472,773</u></u>
Income taxes	<u><u>\$ 2,311</u></u>	<u><u>\$ -</u></u>
<b>Noncash investing and financing activities:</b>		
Property and equipment additions in capital leases	<u><u>\$ 512,038</u></u>	<u><u>\$ 1,042,299</u></u>
Property and equipment write-off against prior year closing reserves	<u><u>\$ 181,513</u></u>	<u><u>\$ -</u></u>
Property and equipment additions in accounts payable	<u><u>\$ -</u></u>	<u><u>\$ 24,750</u></u>
Interest accrued on promissory notes	<u><u>\$ 191,667</u></u>	<u><u>\$ -</u></u>
Acquisition related promissory notes	<u><u>\$ -</u></u>	<u><u>\$ 675,000</u></u>

See notes to consolidated financial statements.

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

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## 1 - ORGANIZATION AND NATURE OF THE BUSINESS

Restaurant Co., LLC dba WOWorks, a subsidiary of CLP Dining, LLC (the "Parent"), is a Delaware limited liability company formed on April 13, 2015, to hold the Parent's initial investment in Saladworks, LLC, a wholly owned subsidiary, and an Illinois limited liability company. The Company has continued to make acquisitions of franchises since inception. The consolidated financial statements comprise Restaurant Co., LLC, and its subsidiaries (together referred to as the "Company"). The Company is primarily involved in the franchising of different quick service restaurant concepts providing marketing strategies, organizational expertise, and site acquisition support for a network of food service franchises specializing in the sale of fresh, "better for you" food under salad, soup, Mediterranean, Southwestern and acai bowl concepts and related products, to the general public. The Company's principal market is the United States of America. Substantially all revenues are derived from franchise royalties, sales of franchise rights, marketing and support funds provided by franchisees, suppliers and vendors, food and beverage revenues from Company-owned restaurants, and sublease rentals.

As of September 25, 2022, the Company's system-wide restaurant network includes 351 locations, of which 22 are Company-owned restaurants. For the fiscal year ended September 25, 2022, the Company made three acquisitions. On October 4, 2021, the Company acquired, via an asset purchase agreement, three (3) *The Simple Greek* restaurants from RL Gyro Boarman, LLC, Gyro Hermitage, LLC, and TSG Niles LLC. All these restaurants were converted into a Garbanzo brand concept and added as Company-owned restaurants under Garbanzo Costor, LLC. Subsequently, on May 10, 2022, the Company acquired, via asset purchase agreement, Zoup! Systems L.L.C. and Barberitos Franchising Inc., the franchise business, and related trademarks, including five (5) Company-owned restaurants and formed two Delaware limited liability companies, Zoup Restaurant Co., LLC and Barberitos, LLC.

For the fiscal year ended September 26, 2021, the Company made several acquisitions starting in December 2020, by acquiring, via asset purchase agreements out of bankruptcy, the Garbanzo Mediterranean Grill, LLC business, as well as Frutta Bowls Franchising LLC business, and formed two Delaware limited liability companies, Garbanzo, LLC and SW Frutta Bowls, LLC. In addition, on April 1, 2021, the Company acquired The Simple Greek, LLC restaurant business via an asset purchase agreement, and on April 29, 2021, acquired a Saladworks restaurant located in E. Norriton, PA (see Note 8 on acquisitions).

## 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

- a. **Basis of Accounting** - The Company prepared the accompanying financial statements in accordance with accounting principles generally accepted in the United States of America ("GAAP"). The consolidated financial statements include the operations, assets and liabilities of the Company. In the opinion of the Company's management, the accompanying consolidated financial statements contain all adjustments, consisting of normal recurring accruals, necessary to fairly present the accompanying consolidated financial statements.
- b. **Principles of Consolidation** - The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.
- c. **Fiscal Year** - The Company utilizes a 52 and 53-week fiscal year. Accordingly, the Company's consolidated financial statements reflected accounts and balances as of and for the fiscal year ended September 25, 2022 and September 26, 2021, are both based on 52 weeks.

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

d. **Revenue Recognition** – The Company recognizes revenue in accordance with the provisions of Accounting Standards Codification (“ASC”) 606 “Revenue from Contracts with Customers” (“ASC 606”). Under ASC 606, a performance obligation is a promise within a contract to transfer a distinct good or service to a customer. Revenue is recognized when performance obligations are satisfied, and the customer obtains control of promised good or services. The amount of revenue recognized reflects the consideration to which the Company expects to be entitled to receive in exchange for goods or services. Under the standard, a contract’s transaction price is allocated to each distinct performance obligation. To determine revenue recognition for arrangements that the Company determines are within the scope of ASC 606, the Company performs the following five steps: (i) identifies the contract with a customer; (ii) identifies the performance obligations with the contract including whether they are distinct and capable of being distinct in the context of the contract; (iii) determines the transaction price; (iv) allocates the transaction price to the performance obligations in the contract; and (v) recognizes revenue when, or as, the Company satisfies each performance obligation.

In conjunction with ASC 606, the Company has elected the practical expedient permitted Accounting Standards Update (“ASU”) 2021-02 – Franchisors – *Revenue from Contracts with Customers* (“ASU 2021-02”). This election allows the Company to treat the pre-opening services as a single performance obligation, distinct from the franchise license. Accordingly, recognition of revenues from these pre-opening services occurs upon the opening of the franchisee location.

*Franchise Fees* - Franchise fees, which are typically received prior to completion of the revenue recognition process, are non-refundable and consist of the following performance obligations:

- 1) pre-opening costs, and
- 2) the franchise licenses

In accordance with ASU 2021-02, pre-opening costs are distinct from the franchise license and grouped into one performance obligation. A portion of the total franchise initial fee, equal to the total costs of pre-opening services, is allocated to the performance obligation. Upon opening of the franchisee store location, this obligation is then deemed satisfied, and allocated revenue is recognized.

The remaining portion of the initial fee is allocated to the franchise license, and upon receipt is recorded as deferred revenue. The performance obligation for the franchise license is satisfied over the term of the agreement, which is generally 10 years. Amounts reflective of performance obligations to be recognized over time are recorded initially as deferred revenue, and subsequently recognized as income.

During the years ended September 25, 2022, and September 26, 2021, the aggregate revenues recognized over-time were approximately \$45,000 and \$8,000, respectively. These franchise fees represent the only amounts recognized over-time; all other revenues are recognized at the point-in-time at which they are earned.

#### *Receivables and Deferred Revenue* –

The following table provides information about receivables and contract liabilities (deferred revenue) from contracts with customers as of September 25, 2022, September 26, 2021, and September 27, 2020:

	<b>September 25, 2022</b>	<b>September 26, 2021</b>	<b>September 27, 2020</b>
<b>Accounts receivable, net</b>	\$ 2,285,915	\$ 1,477,220	\$ 750,394
<b>Deferred revenue</b>	\$ 1,180,297	\$ 1,023,466	\$ 787,500

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

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*Royalty Fees* - Franchise royalty fees include continuing fees received from the franchising of restaurants. Franchise agreements are executed for each franchise restaurant which establishes the terms of the arrangement between the Company with the franchisee. These agreements require the franchisee to pay ongoing royalties between 3.00 and 6.00% of net sales (or a minimum) as defined. As the royalties meet the criteria to be subject to the sales and usage-based royalties' exception for licenses of intellectual property, the Company recognizes royalty fees at the time of billing and does not consider royalties part of the total "transaction price" under the franchise agreement. Royalties are billed on a weekly basis and debited from the franchisee's checking account through an ACH transaction initiated by the Company.

*Advertising Service Fees* - Additionally, management has determined the advertising services provided to franchisees are highly interrelated with the franchise right and therefore not distinct. As a result, revenues for advertising services are recognized when the related restaurant sales occur based on the application of the sales-based royalty exception within Topic 606. Revenues for these services are typically billed and paid weekly. These revenues are presented as franchise contributions for advertising and other services. Expenses incurred to provide these services are presented as Franchise advertising and other services expense. When revenues of an advertising cooperative exceed the related advertising expenses, advertising costs are accrued up to the amount of revenues on an annual basis.

*Brand Development Fund* - The Company utilizes a subsidiary for each store brand concept ("Brand Development Fund" or "BDF") for the purposes of administering a system-wide advertising fund for each store brand for the benefit of the franchisees. Under the Company's franchise agreements, advertising contributions received from franchisees are designated to each store brand BDF account where it must be spent on advertising, product development, marketing, and other activities to promote each store brand. BDF and each related store brand LLC are subject to a fund management agreement that provides for an agency relationship under which a designated portion of the fees received from franchisees is required to be segregated and used specifically for advertising and other brand development initiatives.

In accordance with the provisions of Topic 606, management has determined the Company acts as a principal in the transactions entered into by the advertising cooperatives it is required to consolidate based on its responsibility to define the nature of the goods or services provided and/or its responsibility to define which franchisees receive the benefit of the goods or services. Additionally, management has determined the advertising services provided to franchisees are highly interrelated with the franchise right and therefore not distinct. Franchisees remit to the Company a percentage of restaurant sales as consideration for providing the advertising services. As a result, revenues for advertising services are recognized when the related restaurant sales occur based on the application of the sales-based royalty exception within Topic 606. Revenues for these services are typically billed and paid on a weekly basis. These revenues are presented as Franchise contributions for advertising and other services. Expenses incurred to provide these services are presented as Franchise advertising and other services expense. When revenues of an advertising cooperative exceed the related advertising expenses, advertising costs are accrued up to the amount of revenues on an annual basis.

The sales-based royalty fee and sales-based advertising fee are considered variable consideration and are recognized as revenue as such sales are earned by the franchisees. Both sales-based fees qualify under the royalty constraint exception, and do not require an estimate of future transaction price. Additionally, the Company is utilizing the practical expedient available under ASC Topic 606, "Revenue from Contracts with Customers" ("Topic 606") regarding disclosure of the aggregate amount of the transaction price allocated to the performance obligations that are unsatisfied for sales-based royalties.

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

**Advertising Expense** – The Company makes expenditures on advertising initiatives. Advertising recorded as the obligation to contribute to the advertising fund and is accrued, generally when the associated revenue is recognized. Advertising Expense, which is a component of selling, general, and administrative expenses, is comprised of the following:

	<b>For the Fiscal Year Ended</b>	
	<b>September 25, 2022</b>	<b>September 26, 2021</b>
<b>Franchisor advertising expense</b>		
Promoting franchising	\$ 257,142	\$ 153,033
Corporate stores local marketing	214,434	92,353
<b>Total franchisor advertising expense</b>	471,576	245,386
<b>Brand development fund advertising expense</b>	2,034,207	907,356
<b>Total advertising expense</b>	<b>\$ 2,505,783</b>	<b>\$ 1,152,742</b>

- e. **Food and Beverage** - The Company has various agreements with food suppliers and manufacturers. The Company receives revenues from franchisee purchases in the form of administrative and merchandising fees, which are recognized when products are shipped. Food and beverage revenues related to Company-owned restaurants are recorded at the time of delivery to the store.
- f. **Cash and Cash Equivalents** - Cash and cash equivalents, if any, consist of cash on deposit with financial institutions and liquid investments with maturities at the time of purchase, of three months or less.
- g. **Accounts Receivable** - Accounts receivable are recorded at their estimated realizable value after reduction for an allowance for estimated uncollectible accounts. The allowance for uncollectible accounts is determined primarily through specific identification and evaluation of past due accounts supplemented by an estimate applied to the remaining balance of past due accounts, which is based on historical experience. Accounts are deemed past due when payment has not been received within the stated time period. The Company reviews past due amounts periodically and writes off amounts for which all collection efforts are deemed to have been exhausted. The allowance for doubtful accounts was \$67,270 on September 25, 2022 and September 26, 2021.
- h. **Property and Equipment** - Property and equipment are stated at cost less accumulated depreciation and amortization. Depreciation is provided on the straight-line method over the estimated useful lives of the assets. Estimated useful lives of property and equipment are as follows:

Furniture, fixtures, and equipment	5-7 years
Machinery and equipment	5-7 years
Architectural designs	10-15 years
Computer software	5 years
Computer equipment	5-7 years
Leasehold improvements	Over the shorter of the life of lease or useful life of the related assets

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

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- i. **Goodwill and Intangible Assets** - Goodwill represents the future economic benefits arising from other assets acquired in a business combination that are not individually identified and separately recorded. The excess of the purchase price over the estimated fair value of net assets of businesses acquired in a business combination is recognized as goodwill. The Company amortizes goodwill over a ten-year period as a privately held enterprise under the provisions of ASU No. 2014-02, Intangibles - Goodwill and Other (Topic 350): *Accounting for Goodwill*.

Goodwill is assessed for impairment upon occurrence of a triggering event under the provisions of (ASU) 2021-03, Intangibles—Goodwill and Other (Topic 350): *Accounting Alternative for Evaluating Triggering Events*. Goodwill impairment is assessed with respect to trigger events annually as of the end of the reporting period. At the time a triggering event occurs, management would make a qualitative assessment is first made to determine whether it is necessary to quantitatively test goodwill for impairment. This initial assessment includes, among other things, consideration of macroeconomic conditions and financial performance. If the qualitative assessment indicates that it is more likely than not that an impairment exists, a quantitative analysis is performed by determining the fair value of each reporting unit using a combination of the income approach and the market approach. Based on the outcome of the quantitative assessments, the Company would compare the estimated fair value of each reporting unit with their respective carrying values, including goodwill. An impairment loss would be recognized to the extent that the carrying amount of goodwill exceeds the asset's implied fair value. There were no such triggering events during the fiscal years ended September 25, 2022, or September 26, 2021.

Other intangible assets consist of trademarks, trade name, franchise agreements, and the customer loyalty program. Identifiable intangible assets deemed to have indefinite lives are not amortized. Identifiable intangible assets that have finite lives are amortized over their estimated useful lives. Trademarks, trade names, vendor contracts, and pre-existing franchisor contracts are indefinite lived assets. Customer loyalty program is amortized on a straight-line basis over ten years.

- j. **Impairment of Long-Lived Assets** - The carrying amount of long-lived assets, including finite-lived intangible assets related to assets acquired in business acquisitions, is reviewed whenever events or circumstances exist which indicate that the carrying value of such assets may not be recoverable, or at least annually. When such conditions exist, the Company accumulates the estimated undiscounted cash flows over the remaining life of the related assets. If such amount is less than the carrying amount of the related assets, the Company adjusts the carrying amounts of such assets to their estimated fair value.
- k. **Leases** - For the Company's operating leases, the Company recognizes rent expenses on a straight-line basis over the terms of the leases. Accordingly, the Company records the difference between cash rent payments and the recognition of rent expenses as deferred rent liabilities, which are a component of other long-term liabilities in the consolidated balance sheets.

The Company periodically receives landlord-funded leasehold improvements that are recorded as tenant allowances, which are a component of other long-term liabilities in the consolidated balance sheets and are amortized as a reduction of rent expense over the noncancelable terms of the operating leases. There were no tenant allowances on September 25, 2022. Tenant allowances totaled \$29,112 on September 26, 2021.

For certain franchised restaurants, the Company is the lessor or sublessor of properties on which certain franchisee restaurants are located. The properties are subleased to franchisees under operating leases. Rental income and rental expense for these operating leases are recognized on the straight-line basis over the terms of the leases.

Similarly, certain franchisee leases with third parties periodically require a guarantee of the franchisee/lessee performance on the lease. These guarantees range from a rolling 12-month window



# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

up to the full term of the respective lease (generally up to 10 years). The Company follows the guidance within ASC 460 - Guarantees with respect to these arrangements.

The Company records a liability as a component of other long-term liabilities for the fair value of these guarantees at lease inception, which is adjusted throughout the duration of the guarantee. The Company determined that the fair value of its guarantees was immaterial for both fiscal years ended September 25, 2022 and September 26, 2021. See Note 9.

- l. **Capitalized Leases** - Capitalized leases are stated at the lesser of the present value of future minimum lease payments or the fair value of the leased property. The related amortization expense and imputed interest are charged against income in lieu of the lease rental expense. The amortization of assets under capitalized leases is calculated using the straight-line method over the term of the lease. As of September 25, 2022, the cost and accumulated amortization of assets under capitalized leases totaled \$1,338,131 and \$381,901, respectively. As of September 26, 2021, the cost and accumulated amortization of assets under capitalized leases totaled \$1,851,265 and \$508,334, respectively.
- m. **Company-owned Restaurant Closure Costs and Impairments** - The Company recognizes a charge and related reserve for future operating lease payments associated with Company-owned restaurants that are no longer being utilized in its current operations. The reserve is calculated using the present value of the remaining noncancelable lease payments after the cease use date less an estimate of subtenant income. If subtenant income is expected to be higher than the current lease payments, no reserve is recorded. Lease payments included in the closed store reserve are expected to be paid over the remaining terms of the respective leases. The Company's assumptions about subtenant income are based on its experience and knowledge of the area in which the closed property is located, guidance received from local brokers and agents, commercial market value analysts, and existing economic conditions. As part of its analysis, the Company may acquire third-party fair value reports, which provide independent estimates of the fair values of similar rental properties. Adjustments to the closed store reserve relate primarily to changes in subtenant income and other assumptions differing from original estimates, as well as reductions to the reserve resulting from periodic lease payments. Adjustments are recorded for changes in estimates in the period in which the change becomes known.

During the fiscal year ended September 25, 2022, the Company closed or transferred a total of seven (7) Company-owned non-traditional locations. For the fiscal year ended September 26, 2021, the Company made the decision to close three (3) Company-owned restaurants.

	For the Fiscal Year Ended	
	September 25, 2022	September 26, 2021
<b>Opening balance</b>	\$ 903,495	\$ 125,860
Closures during the fiscal year	671,924	1,000,000
Prior reserve adjustments	(4,133)	-
Expenses applied during year	(965,677)	(222,365)
<b>Ending balance</b>	<b>605,609</b>	<b>903,495</b>
<b>Less: short-term liability portion</b>	<b>(535,258)</b>	<b>(552,529)</b>
<b>Long-term liability portion</b>	<b>\$ 70,351</b>	<b>\$ 350,966</b>

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

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- n. **Business Combinations** - The Company accounts for acquisitions in accordance with ASC 805, Business Combinations. The purchase price of an acquisition is measured as the aggregate fair value of the consideration transferred at the date of acquisition. The purchase price is allocated to the fair values of the tangible and intangible assets acquired and liabilities assumed, with any excess recorded as goodwill. These fair value determinations require judgment and may involve the use of significant estimates and assumptions. The purchase price allocation may be provisional during a measurement period of up to one year from the acquisition date to provide reasonable time to obtain the information necessary to identify and measure the assets acquired and liabilities assumed. Only facts and circumstances that existed as of the acquisition date are considered for subsequent adjustment to the purchase price allocation, and any such adjustment will be recognized in the period in which it is determined prior to completion of the measurement period. Transaction costs associated with acquisitions are expensed as incurred.
- o. **Loyalty Program** - Loyalty program members earn points based on the money they spend at all Company's store brand restaurants. Loyalty program members can redeem rewards, which the Company tracks on their behalf, for discounted food and beverages, promotional items, and other special in-store offers. The loyalty program is available at all Company owned and franchise locations in the United States of America and the liability for any loyalty rewards is that of the participating restaurant. Franchise agreements require that franchisees reimburse the Company currently for the costs of operating the loyalty program, including marketing, promotion, communication with, and performing member services for loyalty program members. The fees paid by franchisees for the costs of operating the loyalty program are included as a component of support and marketing fees in the consolidated statements of operations and changes in member's equity.
- p. **Gift Cards** - The Company sells gift cards to customers. There are no administrative fees on unused gift cards and the gift cards do not have an expiration date. Gift card sales are recorded as a liability in the BDF account of the respective store brands to the gift card liability as a component of accounts payable and accrued expenses when sold and are recognized as revenue when either the gift card is redeemed, or the likelihood of the gift card being redeemed is remote. Gift card liabilities on September 25, 2022, totaled \$684,806 and on September 26, 2021, totaled \$176,618.
- q. **Income Taxes** - The Company is a single member limited liability company and has elected to be reported as a taxable entity. As such, the Company uses the liability method of accounting for income taxes. Under this method, deferred income tax assets and liabilities are determined based on differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes and are measured using the enacted income tax rates at which the resulting income taxes are expected to be paid. All deferred income tax assets and liabilities are reported as long-term on the consolidated balance sheets. The Company files federal income taxes and also files income taxes in the majority of the states.
- r. **Uncertain Income Tax Positions** - The Company recognizes an income tax position as a benefit only if it is "more likely than not" that the income tax position would be sustained in an income tax examination, with an income tax examination being presumed to occur. The amount recognized is the largest amount of the income tax benefit that is greater than 50.00% likely of being realized on examination, with an examination being presumed to occur. For income tax positions not meeting the more-likely-than-not test, no income tax benefit is recorded. Management believes that with few exceptions, the Company is no longer subject to income tax examinations by any income tax authorities for fiscal years prior to 2019. As of September 26, 2022, the Company had no amounts recognized for uncertain income tax positions in its consolidated balance sheets. The Company does not expect the total amount of unrecognized income tax benefits and uncertain tax positions to significantly change in the next 12 months. The Company's policy is to include interest and penalties as a component of income tax expense (benefit).

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

- s. **Limited Liability Company** - Since the Company is a limited liability company, no member, manager, agent, or employee of the Company shall be personally liable for the debts, obligations, or liabilities of the Company, whether arising in contract, tort, or otherwise, or for the acts or omissions of any other member, director, manager, agent, or employee of the Company, unless the individual has signed a specific personal guarantee. The duration of the Company is perpetual. As a limited liability company, the member's liability is limited to the amounts reflected in their respective member's equity account.
- t. **Concentration of Credit Risk** - The Company places its cash with high quality credit institutions. At times, balances may be in excess of the Federal Deposit Insurance Corporation ("FDIC") insurance limit. All accounts at an insured depository institution are insured by the FDIC up to the standard maximum deposit insurance of \$250,000 per institution. The balance in excess of the FDIC insurance limit was approximately \$800,000 on September 25, 2022.
- u. **Estimates** - The preparation of the consolidated financial statements in accordance with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the dates of the consolidated financial statements and the reported amounts of revenues and expenses during the reported periods. Actual results could differ from these estimates.
- v. **Inventory** - Inventories are valued at the lower cost or net realizable value with cost determined by utilizing last cost which approximates the first-in, first-out method. Net realizable value is based on the selling price less disposal costs. Inventory is comprised of food and packaging used at restaurants operated by the Company. Spoiled inventory is written off when identified and discarded.

### 3 - PROPERTY AND EQUIPMENT

Property and equipment consist of the following:

	<u>September 25</u> <u>2022</u>	<u>September 25</u> <u>2021</u>
Leasehold improvements	\$ 1,940,524	\$ 1,828,035
Machinery and equipment	1,612,482	1,400,880
Architectural design	423,013	376,547
Computer software	627,175	321,085
Computer equipment	281,170	178,116
Office equipment	4,066	-
Furniture and fixtures	29,043	50,270
	<u>4,917,473</u>	<u>4,154,933</u>
Less: Accumulated depreciation and amortization	<u>(1,092,862)</u>	<u>(1,044,197)</u>
	<u>\$ 3,824,611</u>	<u>\$ 3,110,736</u>

Depreciation and amortization expense related to property and equipment charged to operations was \$607,246 and \$485,598 for the fiscal years ended September 25, 2022 and September 26, 2021, respectively.

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

## 4 - IDENTIFIABLE INTANGIBLE ASSETS

Identifiable intangible assets and related accumulated amortization consisted of the following as of September 25, 2022:

	<u>Cost</u>	<u>Accumulated Amortization</u>	<u>Carrying Value</u>
<b>Amortized identifiable intangible assets:</b>			
Customer loyalty program	\$ 9,800,000	\$ (1,273,775)	\$ 8,526,225
Goodwill	6,823,162	(468,710)	6,354,452
	<u>\$ 16,623,162</u>	<u>\$ (1,742,485)</u>	<u>\$ 14,880,677</u>
<b>Unamortized identifiable intangible assets:</b>			
Trademarks/tradename	\$ 17,720,000	\$ -	\$ 17,720,000
Vendor contracts	900,000	-	900,000
	<u>\$ 18,620,000</u>	<u>\$ -</u>	<u>\$ 18,620,000</u>

Amortization expense for the fiscal year ended September 25, 2022, was \$519,123 and \$330,420 for intangible assets and goodwill, respectively.

Identifiable intangible assets and related accumulated amortization consisted of the following as of September 26, 2021:

	<u>Cost</u>	<u>Accumulated Amortization</u>	<u>Carrying Value</u>
<b>Amortized identifiable intangible assets:</b>			
Customer loyalty program	\$ 2,400,000	\$ (754,652)	\$ 1,645,348
Goodwill	848,162	(138,290)	709,872
	<u>\$ 3,248,162</u>	<u>\$ (892,942)</u>	<u>\$ 2,355,220</u>
<b>Unamortized identifiable intangible assets:</b>			
Trademarks/tradename	\$ 15,300,000	\$ -	\$ 15,300,000
Vendor contracts	900,000	-	900,000
	<u>\$ 16,200,000</u>	<u>\$ -</u>	<u>\$ 16,200,000</u>

Amortization expense for the fiscal year ended September 26, 2021, was \$173,096 and \$173,096 for intangible assets and goodwill, respectively.

Amortization expense for fiscal years subsequent to September 25, 2022, is as follows:

<u>For the Fiscal Years Ending</u>	<u>Total</u>	<u>Goodwill</u>	<u>Intangible Assets</u>
September 24, 2023	\$ 1,662,316	\$ 682,316	\$ 980,000
September 29, 2024	1,662,316	682,316	980,000
September 28, 2025	1,631,363	682,316	949,047
September 27, 2026	1,552,316	682,316	870,000
September 26, 2027	1,552,316	682,316	870,000
Thereafter	6,820,050	2,942,871	3,877,179
	<u>\$ 14,880,677</u>	<u>\$ 6,354,451</u>	<u>\$ 8,526,226</u>

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

## 5 - TERM DEBT

	<b>September 25, 2022</b>	<b>September 26, 2021</b>
On May 10, 2022, the Company entered into a credit and guaranty agreement with private lender (the "2022 Credit Agreement") with an original principal balance of \$28,000,000, with a maturity date of May 10, 2027, secured by substantially all of the Company's assets. The loan is also guaranteed by the Parent.	\$ 28,000,000	\$ -
<p>Principal is repayable quarterly based on amortization rate of 1.0% per year. The interest is based on either the Federal Reserve Bank rate or Secured Overnight Financing Rate ("SOFR") plus a 7.25% margin, subject to a 1% floor rate and credit adjustment rate of 0.1%. The effective interest rate was approximately 10.5% as of September 25, 2022. As of September 25, 2022, the Company was in compliance with the financial and non-financial covenants included in the 2022 Credit Agreement.</p>		
On January 29, 2020, the Company and the Parent entered into a loan agreement with a financial institution with an original principal balance of \$12,500,000, and an initial maturity date of October 7, 2021, which was extended through March 31, 2023. Interest was based on a 6-month London Interbank Offered Rate ("LIBOR") plus an applicable margin of 1.75%. This loan was repaid in connection with the Company obtaining financing under the 2022 Credit Agreement.	-	12,500,000
On April 1, 2020, the Company and the Parent entered into an additional borrowing agreement with a financial institution with an original principal balance of \$750,000, and an initial maturity date of October 7, 2021, which was extended through March 31, 2023. Interest was based on a 6-month LIBOR plus an applicable margin of 1.75%. This loan was repaid in connection with the Company obtaining financing under the 2022 Credit Agreement.	-	750,000
<b>Principal balance</b>	28,000,000	13,250,000
Unamortized deferred finance costs	(1,353,074)	-
Less: current portion	(280,000)	-
<b>Long-term debt, net of unamortized deferred finance costs</b>	<b>\$ 26,366,926</b>	<b>\$ 13,250,000</b>

Continued

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

Aggregate future maturities of Term Debt are as follows:

<b>For the Fiscal Years Ending</b>	
September 24, 2023	\$ 280,000
September 29, 2024	277,200
September 28, 2025	274,428
September 27, 2026	271,684
September 26, 2027	268,967
Thereafter	26,627,721
	<b>\$ 28,000,000</b>

As a result of the economic uncertainty stemming from the impact of the coronavirus, the Company received two Paycheck Protection Program (“PPP”) loans in the principal amounts of \$728,300 on April 28, 2020, and \$1,019,260 on February 22, 2021, from the United States of America Small Business Administration (“SBA”). The PPP loans had a stated interest rate of 1.00% per annum and no payments of principal or interest are required until the end of a statutorily provided deferral period, which occurs when the SBA concludes on the amount of the loan that will be forgiven. The contractual maturity dates of these loans was February 22, 2026, and April 28, 2022, respectively. Forgiveness under the provisions of the PPP was obtained for both loans, with the first round forgiven during 2021, and the second forgiven during 2022.

The Company has elected to account for its PPP loan as an in-substance grant, analogous to International Accounting Standard (“IAS”) 20, *Accounting for Government Grants and Disclosure of Government Assistance*. Under IAS 20, the PPP loan proceeds were initially recorded as a deferred grant income liability and subsequently recognized on a systematic basis into other income as the related permissible expenses were incurred and forgiveness of the loan was reasonably assured. The first round of the PPP funding was recognized as grant income during the fiscal year 2020, as the related expenses were incurred during that fiscal year. The PPP loan received on February 22, 2021, was recognized as grant income of \$1,019,260 as a component of other income in the consolidated statements of operations and changes in member’s equity consistent with the amount of qualifying expenses incurred during the fiscal year ended September 26, 2021. Cash inflows and cash outflows from the PPP loan are classified as operating cash flows.

## 6 - PROMISSORY NOTES

The Company entered into the following promissory note payable agreements for the fiscal years ended September 25, 2022, and September 26, 2021:

- a) On May 10, 2022, in connection with the acquisition of Zoup! Systems L.L.C. and Barberitos Franchising Inc. as part of the refinancing, the Company, via its Parent, received a Promissory Note of \$5,000,000 which bears interest of 10% compounded annually, with interest and principal due in full at the maturity date of December 31, 2027. On September 25, 2022, the balance on the note was \$5,191,667, including \$191,667 in accrued interest.
- b) On April 29, 2021, in connection with the acquisition of the Saladworks store located in E. Norriton, PA, the purchase was payable under a promissory note agreement with E&C Salads, Inc. for the amount of \$325,000 payable in 32 equal monthly installments of \$10,367, including principal and interest at the rate of 1.5% annually. As of September 26, 2022, the balance on the note was \$164,124, including \$218 in accrued interest with a current portion due on the promissory note of \$122,784 in principal and interest. As of September 26, 2021, the balance on the note was \$285,403, including \$321 in accrued interest with a current portion due on the promissory note of \$121,279 in principal and interest.

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

- c) On December 31, 2020, in connection with the acquisition of Garbanzo Mediterranean Grill LLC, a portion of the purchase was payable under a subordinated promissory note agreement with MHS Telluride, LLC for the amount of \$350,000, which bears interest of 7.0% annually. Quarterly interest payments, payable in arrears, commenced January 1, 2021. Principal payment of \$175,000 was made on January 1, 2021. The second and final payment of the \$175,000 outstanding principal balance was repaid on January 1, 2023, the maturity date. On September 25, 2022, an interest amount of \$14,266 was accrued and included in the current portion due on the promissory note, totaling \$189,266 in principal and interest. On September 26, 2021, an interest amount of \$18,988 was accrued and included in the current portion due on promissory note, totaling \$193,988 in principal and interest.

Aggregate maturities of promissory notes are as follows:

<b><i>For the Fiscal Years Ending</i></b>	
September 24, 2023	\$ 297,632
September 29, 2024	41,274
September 28, 2025	-
September 27, 2026	-
September 26, 2027	5,191,667
Thereafter	-
	<hr/>
	<b>\$ 5,530,573</b>

## 7 - Income Taxes

Income tax expense consists of the following:

	<b>For the Fiscal Year Ended</b>	
	<b>September 25, 2022</b>	<b>September 26, 2021</b>
Current income tax expense	\$ 42,583	\$ 5,223
Deferred income tax expense (benefit)	(2,849,105)	1,881,005
Change in deferred income tax valuation allowance	2,849,105	(1,881,005)
<b><i>Income Tax Expense</i></b>	<b>\$ 42,583</b>	<b>\$ 5,223</b>

The difference between the federal statutory income tax rate and the Company's effective income tax rate for the fiscal year ended September 25, 2022, was primarily due to the impact of permanent differences, state income taxes, tax adjustments related to the prior year and the impact of the valuation allowance.

The difference between the federal statutory income tax rate and the Company's effective income tax rate for the fiscal year ended September 26, 2021, was primarily due to the impact of permanent differences, the impact of state income taxes, and the impact of the valuation allowance.

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

Deferred income tax assets (liabilities) consist of the following:

	<u>September 25, 2022</u>	<u>September 26, 2021</u>
Net operating losses	\$ 2,695,277	\$ 260,231
Identifiable intangible assets	22,591	98,472
Allowance for doubtful accounts	18,123	18,329
Other	807,420	586,737
<b>Total Deferred Income Tax Assets</b>	<b><u>3,543,411</u></b>	<b><u>963,769</u></b>
Property and equipment	(965,636)	(904,217)
Goodwill	(147,562)	(39,393)
Prepaid expenses	(79,482)	(20,159)
Other	(48,160)	-
<b>Total Deferred Income Tax Liabilities</b>	<b><u>(1,240,840)</u></b>	<b><u>(963,769)</u></b>
<b>Net Deferred Income Tax Assets before valuation allowance</b>	<b>2,302,571</b>	<b>-</b>
Valuation allowance	(2,302,571)	-
<b>Net Deferred Income Tax Assets (Liabilities)</b>	<b><u>\$ -</u></b>	<b><u>\$ -</u></b>

The Company had net operating losses attributable to Federal, state, and local tax filings. As of September 25, 2022, Federal operating losses totaled approximately \$10,249,000, and state and local operating losses totaled approximately \$9,069,000. Federal net operating losses totaling approximately \$8,561,000 as of September 25, 2022, carryforward indefinitely, with the remaining carryforwards set to begin expiring in the fiscal year ending September 28, 2036.

Significant judgment is required in determining whether the Company's deferred income tax assets will be realized in full or in part. A valuation allowance is required for deferred income tax assets when it is more likely than not that all or some portion of specific deferred income tax assets will not be realized. Accordingly, as of September 25, 2022, the net deferred income tax assets have been reduced by a full valuation allowance due primarily to the fact that the Company has generated a cumulative net loss since the inception of its operations.

## 8 - BUSINESS ACQUISITIONS

**Zoup! Systems L.L.C.** - On May 10, 2022, the Company acquired 100% of the operating assets of the franchising operations of Zoup! Systems L.L.C., including intellectual property, trademarks, and franchise agreements, and one (1) Corporate-Owned restaurant via an asset purchase agreement. The aggregate purchase price totaled \$7,500,000 and paid cash at closing.



# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

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Based on the fair market value of the assets acquired, the purchase price was allocated as follows:

<u>Description</u>	<u>Amount</u>
Identifiable intangible assets	\$ 5,320,000
Goodwill	2,015,000
Leasehold improvements	100,000
Machinery and equipment	50,000
Computer hardware	15,000
Purchase Price	<u>\$ 7,500,000</u>

**Barberitos Franchising Inc.** - On May 10, 2022, the Company acquired 100% of the operating assets of the franchising operations of Barberitos Franchising Inc., including intellectual property, trademarks, and franchise agreements, and four (4) Corporate-Owned restaurants via an asset purchase agreement. The aggregate purchase price totaled \$9,023,581 and paid cash at closing.

Based on the fair market value of the assets acquired, the purchase price was allocated as follows:

<u>Description</u>	<u>Amount</u>
Identifiable intangible assets	\$ 4,500,000
Goodwill	3,660,000
Leasehold improvements	500,000
Machinery and equipment	275,000
Computer software	50,000
Computer hardware	15,000
Prepaid expenses	18,264
Security deposit on leases	5,317
Purchase Price	<u>\$ 9,023,581</u>

**RL Gyro Boarman, LLC, Gyro Hermitage, LLC, and TSG Niles LLC** – On October 4, 2021, the Company acquired, via an asset purchase agreement, substantially all the assets related to the operations of three (3) *The Simple Greek* restaurants owned by a group of investors. Each restaurant operates as a separate limited liability company. The aggregate purchase price totaled \$450,000, of which \$150,000 was paid at closing, with the remaining balance deferred over three (3) years with quarterly payments of \$25,000 which commenced January 1, 2022.

Based on the fair market value of the assets acquired, the purchase price was allocated as follows:

<u>Description</u>	<u>Amount</u>
Machinery and equipment	\$ 150,000
Goodwill	300,000
Purchase Price	<u>\$ 450,000</u>

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

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**E&C, LLC** - On April 29, 2021, the Company acquired 100% of the operating assets of the restaurant operations of E&C, LLC for a Saladworks restaurant located in E. Norriton, PA via an asset purchase agreement. The purchase price of \$325,000 was payable under a promissory note in thirty-two (32) equal monthly installments beginning May 29, 2021.

Based on the fair market value of the assets acquired, the purchase price was allocated as follows:

<u>Description</u>	<u>Amount</u>
Goodwill	\$ 175,000
Leasehold improvement	100,000
Furniture, fixtures, and equipment	50,000
Purchase Price	<u>\$ 325,000</u>

**The Simple Greek** - On April 1, 2021, the Company acquired 100% of the operating assets of the franchising operations of The Simple Greek, LLC including intellectual property, trademarks, and franchise agreements out of financial distress via an asset purchase agreement. The purchase price was \$380,000, of which \$130,000 was paid at closing, with the remaining balance of \$250,000 paid on March 31, 2022, based on the projected 12 months sales level after closing.

Based on the fair market value of the assets acquired, the purchase price was allocated as follows:

<u>Description</u>	<u>Amount</u>
Identifiable intangible assets	\$ 1,300,000
Gain on bargain purchase	<u>(920,000)</u>
Purchase Price	<u>\$ 380,000</u>

**Frutta Bowls Franchising, LLC** - On December 28, 2020, the Company acquired 100% of the operating assets of the franchising operations of Frutta Bowls Franchising, LLC including intellectual property, trademarks, and franchise agreements out of financial distress via an asset purchase agreement. The purchase price of \$693,879 was paid at closing.

Based on the fair market value of the assets acquired, the purchase price was allocated as follows:

<u>Description</u>	<u>Amount</u>
Identifiable intangible assets	\$ 1,100,000
Gain on bargain purchase	<u>(406,121)</u>
Purchase Price	<u>\$ 693,879</u>

**Garbanzo Grill Mediterranean LLC** - On December 21, 2020, the Company acquired 100% of the operating assets of the franchising operations of Garbanzo Mediterranean Grill LLC, including intellectual property, trademarks, and franchise agreements, and five (5) Corporate-Owned restaurants out of bankruptcy via an asset purchase agreement. The aggregate purchase price totaled \$907,092, of which an amount of \$557,052 was paid at closing and \$350,000 payable under a subordinated note as referred to in Note 6.

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

Based on the fair market value of the assets acquired, the purchase price was allocated as follows:

<u>Description</u>	<u>Amount</u>
Identifiable intangible assets	\$ 1,600,000
Leasehold improvements	329,920
Furniture and fixtures	200,490
Inventory	27,806
Assumed liabilities	(398,554)
Gain on bargain purchase	<u>(852,570)</u>
Purchase Price	<u>\$ 907,092</u>

## 9 - COMMITMENTS

**Operating Leases:** The Company has entered into various agreements for marketing, advertising, franchise brokers, and public relations. These agreements have various terms ranging from month-to-month to three-year terms. All payments made for these services are charged to expense in the fiscal year costs are incurred.

During 2021, the Company closed its administrative offices in West Conshohocken, Pennsylvania which was under a lease set to expire on September 30, 2024. The Company relocated its headquarters to a new office in St. Petersburg, Florida on a month-to-month lease arrangement which ended in April 30, 2022. Upon vacating the St. Petersburg office, the Company established a business and mailing address in St. Petersburg, Florida. The Company was able to sublease its old administrative offices effective June 1, 2021. The Company is still responsible for its pro-rata share of real estate taxes and other operating expenses under this lease and sublease agreement. The Company accrued for the administrative offices closure costs an amount of \$90,433 on September 25, 2022, and an amount of \$113,926 on September 26, 2021.

Under the terms of various lease agreements, the Company acts as an over-tenant for premises that are subleased to certain franchisees. For these leases, the franchisees are responsible for minimum rental payments and other operating expenses. Should these franchisees default on these sublease agreements, the Company is responsible for payment on such leases.

<u>For the Fiscal Years Ending</u>	<u>Company Commitment</u>	<u>Sublease and Guarantor Commitment</u>	<u>Net Commitment</u>
September 24, 2023	\$ 1,576,920	\$ (360,833)	\$ 1,216,087
September 29, 2024	1,438,914	(270,935)	1,167,979
September 28, 2025	1,049,945	(165,693)	884,252
September 27, 2026	881,425	(168,460)	712,965
September 26, 2027	641,836	(171,237)	470,599
Thereafter	1,298,967	(107,329)	1,191,638
	<u>\$ 6,888,007</u>	<u>\$ (1,244,487)</u>	<u>\$ 5,643,520</u>

Rent expense for the fiscal years ended September 25, 2022, and September 26, 2021, totaled \$1,417,293 and \$1,128,328, respectively.

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

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**Capital Lease and Sale-leaseback Transactions** - During the fiscal year ended December 30, 2018, the Company entered into a master equipment lease agreement (“First Sale-leaseback Agreement”) with a financial institution. The First Sale-leaseback Agreement allows the Company to sell individual assets to the buyer/lessor for the original purchase price of the respective asset(s) and simultaneously lease the same assets from the buyer/lessor. The maximum draw on the First Sale-leaseback Agreement is \$1,000,000 and the agreement has a 32-month term. The arrangement is accounted for as a capital lease due to a bargain purchase option at the end of the lease and due to the present value of cash flows under the lease exceeding 90.00% of the fair market of assets leased at the beginning of the lease term. The monthly payment is adjusted based upon the amounts sold and leased back. No amounts were sold/leased under the First Sale-leaseback Agreement during the fiscal years ended September 25, 2022 and September 26, 2021.

During the fiscal year ended September 27, 2020, the Company entered into a master lease agreement (“Second Sale-leaseback Agreement”) with a different financial institution. The Second Sale-leaseback Agreement allows the Company to sell individual assets to the buyer/lessor for the original purchase price of the respective asset(s) and simultaneously lease the same assets from the buyer/lessor. Assets under the Second Sale-leaseback Agreement are leased for a period of 36 months. The arrangement is accounted for as a capital lease due to a bargain purchase option at the end of the lease and also as a result of the present value of cash flows under the lease exceeding 90.00% of the fair market of assets leased at the beginning of the lease term. The monthly payment is adjusted based upon the amounts sold and leased back. During the fiscal year ended September 25, 2022, the Company did not have any assets sold/leased under the Second Sale-leaseback Agreement. During the fiscal year ended September 26, 2021, the Company sold/leased assets with a carrying value of \$300,792 for proceeds of \$300,792.

The aggregate future minimum rental commitments for future fiscal years for all capitalized leases as of September 25, 2022, were as follows:

<b>For the Fiscal Years Ending</b>	
September 24, 2023	\$ 948,574
September 29, 2024	627,420
September 28, 2025	<u>397,684</u>
Total minimum lease payments	1,973,678
Imputed interest	<u>(352,558)</u>
Present value of net minimum lease payments	1,621,120
Current portion	<u>(730,158)</u>
Long-term portion	<u>\$ 890,962</u>

Interest rates on capitalized leases range from approximately 12.00% to approximately 20.00%. Amortization expense for assets under capitalized leases is recorded as a component of depreciation expense in the consolidated statements of operations and changes in member’s equity.

# RESTAURANT CO., LLC dba WOWorks

Consolidated Financial Statements

For the Fiscal Years Ended September 25, 2022, and September 26, 2021

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## 10 - RETIREMENT PLAN

The Company has a 401(k) defined contribution plan (the "Plan"), which is an employee salary deferral plan only for the benefit of all eligible employees of the Company.

All employees of the Company who have attained age 21 and have completed one year of service are eligible to participate in the Plan. Employee salary deferrals are subject to statutory limits. Participants are immediately vested in their elective deferral contributions plus actual earnings thereon. The Company made contributions to the Plan totaling \$111,302 during the fiscal year ended September 25, 2022, and \$80,394 during the fiscal year ended September 26, 2021.

## 11 - RELATED PARTIES

The Company receives management and oversight services from the Parent of the Company and is required to pay management fees of \$250,000 per fiscal year under this contract. For the fiscal years ended September 25, 2022 and September 26, 2021, the Company incurred \$250,000 of management fees, which is included in other expenses on the consolidated statements of operations and changes in member's equity. On September 26, 2022, an amount of \$123,419, and on September 26, 2021, an amount of \$333,229, is owed to the Parent of the Company for management and oversight services and was included in accounts payable and accrued expenses within the consolidated balance sheets.

As outlined in Note 5 – Term Debt, the Company has issued in 2022 a Promissory Note and in 2021 was a party to a credit agreement in conjunction with the Parent of the Company.

## 12 - RECLASSIFICATION OF PRIOR YEAR PRESENTATION

Certain prior year amounts have been reclassified for consistency with the current year presentation. The reclassifications had no effect on the reported results of operations.

## 13 - SUBSEQUENT EVENTS

On February 6, 2023, the Company signed a letter of intent to purchase substantially all the assets, including intellectual property and trademarks of a quick service restaurant concept for an amount of \$15,000,000, with \$5,000,000 to be paid at closing and \$10,000,000 to be paid within 2 years of closing. Part of the assets purchased under the agreement include a new leased manufacturing facility where the capital expenditures will be assumed by the Company which is estimated to be approximately \$500,000. The closing date is scheduled to take place in May 2023.

The Company evaluated all events and transactions that occurred after September 25, 2022, through April 1, 2023, the date these consolidated financial statements were available to be issued. During this period, the Company did not have any material subsequent events and concluded no such events or transactions occurred other than as disclosed in the consolidated financial statements.

**RESTAURANT CO., LLC**  
West Conshohocken, Pennsylvania

**CONSOLIDATED FINANCIAL STATEMENTS**  
September 27, 2020 and September 29, 2019

RESTAURANT CO., LLC  
West Conshohocken, Pennsylvania

CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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## INDEPENDENT AUDITOR'S REPORT

To the Board of Directors  
Restaurant Co., LLC  
West Conshohocken, Pennsylvania

**Report on the Consolidated Financial Statements**

We have audited the accompanying consolidated financial statements of Restaurant Co., LLC, which comprise the consolidated balance sheets as of September 27, 2020 and September 29, 2019, and the related consolidated statements of operations and changes in member's equity and cash flows for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019, and the related notes to the consolidated financial statements.

***Management's Responsibility for the Consolidated Financial Statements***

Management is responsible for the preparation and fair presentation of these 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.

***Auditor's Responsibility***

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements 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 entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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(Continued)



**Opinion**

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Restaurant Co., LLC as of September 27, 2020 and September 29, 2019, and the results of its operations and its cash flows for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019 in accordance with accounting principles generally accepted in the United States of America.

*Crowe LLP*  
Crowe LLP

Oak Brook, Illinois  
December 29, 2020

RESTAURANT CO., LLC  
CONSOLIDATED BALANCE SHEETS  
September 27, 2020 and September 29, 2019

	<u>2020</u>	<u>2019</u>
<b>ASSETS</b>		
Current assets		
Cash and cash equivalents	\$ 622,586	\$ 772,742
Accounts receivable, less allowance for doubtful accounts of \$0 and \$4,000 as of September 27, 2020 and September 29, 2019, respectively	777,906	557,985
Prepaid expenses	555,806	484,930
Other current assets	133,394	156,312
Total current assets	2,089,692	1,971,969
Property and equipment		
Furniture, fixtures, and equipment	897,818	669,381
Leasehold improvements	1,355,543	777,506
Architectural designs	241,581	105,781
Computer software	126,758	14,375
	2,621,700	1,567,043
Less accumulated depreciation	(747,234)	(439,429)
Property and equipment, net	1,874,466	1,127,614
Other long-term assets		
Identifiable intangible assets, net of accumulated amortization	14,018,444	14,128,143
Other long-term assets	190,413	198,458
Goodwill	605,846	673,162
Total other long-term assets	14,814,703	14,999,763
Total assets	\$ 18,778,861	\$ 18,099,346
<b>LIABILITIES AND MEMBER'S EQUITY</b>		
Current liabilities		
Current portion of long-term debt	\$ 1,194	\$ 14,797
Accounts payable and accrued expenses	1,527,025	1,160,056
Deferred revenue	787,500	559,027
Current portion of capital lease liability	251,900	183,431
Total current liabilities	2,567,619	1,917,311
Long-term liabilities		
Long-term debt, net of current portion	13,250,000	11,902,606
Line of credit	-	278,187
Capital lease liability, long-term	437,858	291,523
Other long-term liabilities	296,159	379,259
Total long-term liabilities	13,984,017	12,851,575
Total liabilities	16,551,636	14,768,886
Member's equity	2,227,225	3,330,460
Total liabilities and member's equity	\$ 18,778,861	\$ 18,099,346

See accompanying notes to the consolidated financial statements.

RESTAURANT CO., LLC  
CONSOLIDATED STATEMENTS OF OPERATIONS AND CHANGES IN MEMBER'S EQUITY  
For the fiscal year ended September 27, 2020 and  
for the period from December 31, 2018 to September 29, 2019

	<u>2020</u>	<u>2019</u>
<b>Revenues</b>		
Franchise and royalty revenues	\$ 4,913,925	\$ 4,570,258
Food and beverage revenues	1,788,528	1,945,478
Rental income from subleases	386,010	469,114
	<u>7,088,463</u>	<u>6,984,850</u>
<b>Operating costs</b>		
Selling, general, and administrative expenses	5,546,095	4,893,093
Food and beverage costs	613,568	708,453
Restaurant operating costs	941,641	996,245
Rental expense from subleases	386,010	469,114
Depreciation and amortization expenses	474,129	307,774
	<u>7,961,443</u>	<u>7,374,679</u>
<b>Loss before other expenses and income tax expense (benefit)</b>	(872,980)	(389,829)
<b>Other expenses</b>		
Other (income) expense	(764,335)	405,251
Interest expense	740,633	961,154
Management fees	250,000	187,498
	<u>226,298</u>	<u>1,553,903</u>
<b>Loss before income tax expense (benefit)</b>	(1,099,278)	(1,943,732)
Income tax expense (benefit)	3,957	(31,489)
	<u>3,957</u>	<u>(31,489)</u>
<b>Net loss</b>	<u>\$ (1,103,235)</u>	<u>\$ (1,912,243)</u>
Member's equity as of beginning of fiscal year	\$ 3,330,460	\$ 6,242,703
Distribution to member	-	(1,000,000)
Net loss	<u>(1,103,235)</u>	<u>(1,912,243)</u>
<b>Member's equity as of end of fiscal year</b>	<u>\$ 2,227,225</u>	<u>\$ 3,330,460</u>

See accompanying notes to the consolidated financial statements.

RESTAURANT CO., LLC  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
For the fiscal year ended September 27, 2020 and  
for the period from December 31, 2018 to September 29, 2019

	<u>2020</u>	<u>2019</u>
<b>Cash flows from operating activities</b>		
Net loss	\$ (1,103,235)	\$ (1,912,243)
Adjustments to reconcile net loss to net cash from operating activities		
Depreciation and amortization	474,129	307,774
Amortization and write-off of deferred financing costs	98,661	127,720
Loss on disposals of property and equipment	10,958	136,370
Changes in assets and liabilities		
Accounts receivable	(219,921)	(128,669)
Prepaid expenses	(70,876)	(17,473)
Other current assets	22,918	(35,535)
Other long-term assets	8,045	(33,088)
Accounts payable and accrued expenses	366,969	456,488
Deferred revenue	228,473	319,997
Other long-term liabilities	(83,100)	252,831
Net cash from operating activities	<u>(266,979)</u>	<u>(525,828)</u>
<b>Cash flows from investing activities</b>		
Proceeds from the sales of property and equipment	38,559	-
Purchases of property and equipment	<u>(1,093,483)</u>	<u>(79,656)</u>
Net cash from investing activities	(1,054,924)	(79,656)
<b>Cash flows from financing activities</b>		
Payment of deferred financing costs	-	(41,031)
Borrowings of long-term debt	13,250,000	-
Principal payments on long-term debt	(12,014,870)	(10,632)
Principal payments on capital lease liability	(165,243)	(39,751)
Net (repayments) borrowings on revolving line of credit	(278,187)	130,724
Proceeds from sale-leaseback transactions	380,047	514,705
Distribution to member	-	(1,000,000)
Net cash from financing activities	<u>1,171,747</u>	<u>(445,985)</u>
Net change in cash and cash equivalents	(150,156)	(1,051,469)
Cash and cash equivalents as of beginning of fiscal year	<u>772,742</u>	<u>1,824,211</u>
<b>Cash and cash equivalents as of end of fiscal year</b>	<u>\$ 622,586</u>	<u>\$ 772,742</u>
Supplemental disclosures of cash flow information		
Cash paid during the fiscal year for interest	\$ 564,429	\$ 845,790
Property and equipment additions included in accounts payable	159,070	-

See accompanying notes to the consolidated financial statements.

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Organization:** Restaurant Co., LLC (a Delaware limited liability company and the “Company”) was formed on April 13, 2015 to hold the investment in Saladworks, LLC, its subsidiary, an Illinois limited liability company. The Company provides marketing strategies, organizational expertise, and site acquisition support for a network of food service franchises specializing in the sale of fresh salads and related products to the general public. The Company's principal market is throughout the United States of America. Substantially all revenues are derived from franchise royalties, sales of franchise rights, marketing funds provided by suppliers and vendors, food and beverage revenues from Company-owned restaurants, and sublease rentals. The following table provides additional information about the Company-owned and franchised restaurants operating as of September 27, 2020 and September 29, 2019:

	<u>2020</u>	<u>2019</u>
Franchised and licensed restaurants	108	88
Company-owned restaurants	8	6

**Principles of Consolidation:** The consolidated financial statements include the Company and its wholly owned subsidiaries. All significant intercompany accounts and transactions have been eliminated in consolidation.

**Use of Estimates:** Management of the Company uses estimates and assumptions in preparing consolidated financial statements. Those estimates and assumptions affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and the reported revenues and expenses. Actual results could differ from those estimates. Estimates that are more susceptible to change in the near term are the Company's allowance for doubtful accounts, the useful lives and valuation of property and equipment, the useful lives and valuation of intangible assets and goodwill, and the valuation of deferred income tax assets and liabilities.

In December 2019, a novel strain of coronavirus surfaced in Wuhan, China, and has spread around the world, with resulting business and social disruption. The coronavirus was declared a public health emergency of international concern by the World Health Organization on January 30, 2020. The coronavirus outbreak has impacted the restaurant industry worldwide. Various government restrictions have been put in place across the United States of America during 2020 that have either forced restaurants to temporarily close or limit the amount of people that can dine indoors. The coronavirus outbreak forced various franchised and corporate owned restaurants of the Company to temporarily close. As a result of the temporary closures, the Company had a significant decrease in revenues during the first several months of the coronavirus outbreak that took place during the fiscal year ended September 27, 2020. Most of the restaurants that were forced to temporarily close are now operating. However, the Company's revenues are still less than the same periods of the prior fiscal year. The Company cannot presently estimate the overall operational and financial impact of the coronavirus, which could be material, and which is highly dependent on the breadth and duration of the outbreak and could be affected by other factors the Company is not currently able to predict. Estimates that are more susceptible to change in the near term may be materially adversely impacted by local and national events designed to contain the coronavirus.

**Fiscal Year:** The Company utilizes a 52-/53-week fiscal year. During the fiscal year ended September 29, 2019, the Company changed its fiscal year to end on the last Sunday closest to September 30. Previously, the Company's fiscal year ended on the last Sunday closest to December 31. Accordingly, the Company's consolidated financial statements reflected accounts and balances as of and for the fiscal year ended September 27, 2020 and as of September 29, 2019 and for the period from December 31, 2018 to September 29, 2019.

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(Continued)

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

Brand Development Fund: The Company utilizes a subsidiary, SW Brand Fund, LLC (“SWBF” or “Brand Development Fund”) for purposes of administering a system-wide advertising fund for the benefit of franchisees. Under the Company’s franchise agreements, advertising contributions received from franchisees that are designated for the Company’s Brand Development Fund must be spent on advertising, product development, marketing, and other activities to promote the Company’s brand.

Saladworks, LLC and SWBF are subject to a fund management agreement that provides for an agency relationship under which a designated portion of the fees received from franchisees is required to be segregated and used specifically for advertising and other brand development initiatives.

Under the Company’s franchise agreements, advertising contributions received from franchisees must be spent on advertising, product development, marketing, and activities to promote the Company’s brand. Since the Company acts as an agent for these specifically designated contributions, the revenues and expenses of the advertising funds are netted in the consolidated statements of operations and changes in member’s equity and cash flows. Additionally, from time to time, the Company utilizes the funds received from franchisees for advertising purposes as reimbursement of its costs, including salaries and other internal costs, of administering SWBF.

During the fiscal year ended December 30, 2018, a \$1,000,000 loan payable by SWBF to Saladworks, LLC was created. The purpose of the loan is for Saladworks, LLC to recover excess advertising expenditures incurred by the Company in previous fiscal years from SWBF. Repayments on the loan by SWBF to Saladworks LLC (\$198,683 for the fiscal year ended September 27, 2020 and \$147,792 for the period from December 31, 2018 to September 29, 2019) are based upon a percentage of the annual advertising contributions received by SWBF. This percentage was 15.00% and 10.00% for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019, respectively. The percentage remains at 15.00% until fully repaid. The loan does not bear interest.

The total reimbursements were \$221,554 and \$221,753 for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019, respectively. The aforementioned loan and all reimbursements between Saladworks, LLC and SWBF are fully eliminated in consolidation.

SWBF expenses the production costs of advertising when the advertisements are first aired or displayed. All other advertising and promotional costs are expensed in the fiscal year incurred. As of the consolidated balance sheet dates, contributions received may not equal advertising and promotional expenditures for the fiscal year due to the timing of advertising promotions. To the extent that contributions received exceed advertising and promotional expenditures, the excess contributions are accounted for as a deferred liability and are recorded as a component of accounts payable and accrued expenses in the accompanying consolidated balance sheets. To the extent that advertising and promotional expenditures temporarily exceed contributions received, the excess expenditures are accounted for as an asset as a component of prepaid expenses in the accompanying consolidated balance sheets.

Revenue Recognition: The Company recognizes revenue primarily through royalty fees, initial franchise fees, and licensing fees under the terms of the individual franchise agreements. These franchise agreements generally have an initial term of 10 years, with optional renewal periods as defined in the agreements. Royalty fees of 3.00% to 6.00% are recognized as income based on weekly net sales at franchised restaurants. Initial franchise fees (ranging from \$17,500 to \$35,000) and licensing fees (generally \$20,000) are recognized as the Company’s obligations regarding services to be performed in opening a restaurant are fulfilled, which generally is at the time a restaurant is opened. Amounts determined to be unearned are reported as deferred revenue in the consolidated balance sheets. Related expenses are charged to operations as incurred.

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(Continued)

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

The Company has various agreements with food suppliers and equipment wholesalers and manufacturers who are recognized as approved suppliers and vendors. Under these agreements, the Company receives commissions based upon certain levels of system-wide purchases of such products by the franchisees. Advances received by the Company under such contracts are recorded as deferred income until earned. Food and beverage revenues related to Company-owned restaurants are recorded at the time of delivery to the customer.

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2014-09, Revenue from Contracts with Customers ("Topic 606"). This new accounting standard provides accounting guidance for all revenue arising from contracts with customers and affects all entities that enter into contracts to provide goods or services to their customers. In June 2020, the FASB issued ASU 2020-05, Revenue from Contracts with Customers ("Topic 606") and Leases ("Topic 842"), which deferred the effective date of Topic 606 for certain entities that have not already issued their financial statements. The Company applied ASU 2020-05 for the fiscal year ended September 27, 2020 and will defer the adoption of Topic 606 to the fiscal year ending September 26, 2021.

Cash and Cash Equivalents: For purposes of reporting cash flows, the Company considers all highly liquid debt instruments purchased with a maturity of three months or less to be cash equivalents.

Accounts Receivable: Accounts receivable are reported at the amount management of the Company expects to collect from outstanding balances. Differences between the amount due and the amount management of the Company expects to collect are reported in the results of operations of the period in which those differences are determined, with an offsetting entry to a valuation allowance for accounts receivable. Balances that are still outstanding after management of the Company has used reasonable collection efforts are written off through a charge to the valuation allowance and a credit to accounts receivable. There was a valuation allowance of \$0 and \$4,000 as of September 27, 2020 and September 29, 2019, respectively.

Property and Equipment and Depreciation and Amortization: Property and equipment is stated at cost. Depreciation is computed using the straight-line method over the estimated useful lives of the related assets. Estimated useful lives of property and equipment are as follows:

Furniture, fixtures, and equipment	5-7 years
Architectural designs	10-15 years
Computer software	5 years
Leasehold improvements	Over the shorter of the life of lease or useful life of the related asset

Depreciation and amortization expense related to property and equipment was \$297,114 and \$225,508 for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019, respectively.

Identifiable Intangible Assets: Identifiable intangible assets consist of the value of the trademarks, the trade name, the vendor contracts, and the customer loyalty program. Identifiable intangible assets deemed to have indefinite lives are not amortized. Identifiable intangible assets that have finite lives are amortized over their estimated useful lives.

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(Continued)

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

Deferred Financing Costs: Deferred financing costs were amortized over the life of the related credit agreement. As of September 29, 2019, the original cost of deferred financing costs totaled \$485,861. The accumulated amortization of deferred financing costs was \$387,200 as of September 29, 2019. During the fiscal year ended September 27, 2020, the Company paid off its 2017 Credit Agreement as a result of obtaining new financing through a new lender and wrote-off any deferred financing costs associated with the 2017 Credit Agreement. No deferred financing costs were recorded as of September 27, 2020. No deferred financing costs were incurred during the fiscal year ended September 27, 2020. During the fiscal year ended September 27, 2020, expense associated with the amortization and write-off of deferred financing costs was \$98,661. Amortization expense of deferred financing costs was \$127,720 for the period from December 31, 2018 to September 29, 2019.

The Company includes the amortization and write-off of these costs as a component of interest expense on the consolidated statements of operations and changes in member's equity. Deferred financing costs were reported as a reduction in the carrying value of the related long-term debt on the consolidated balance sheet.

Adoption of New Accounting Standard: In January 2014, the FASB issued guidance that provides private companies with an alternative for the subsequent measurement of goodwill. Under this alternative, goodwill is amortized over no more than 10 years and only tested for impairment when a triggering event indicates that the carrying value of the entity's or reporting unit's goodwill may exceed its estimated fair value. Entities that adopt the alternative are required to make a policy decision to test the goodwill impairment either at the entity level or at the reporting unit level. The Company has adopted the accounting alternative and applied the provision prospectively beginning September 30, 2019. The Company has elected to test goodwill for impairment at the entity level.

Goodwill: Goodwill represents the excess purchase price over the fair value of the net assets of the business acquired. Since September 30, 2019, goodwill is being amortized over 10 years. Goodwill impairment testing is performed at the entity level only when a triggering event indicates that the carrying value of the entity exceeds its estimated fair value. No goodwill impairment expense was recorded during the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019.

A rollforward of goodwill during the fiscal year ended September 27, 2020 was as follows:

Goodwill as of September 30, 2019	\$ 673,162
Amortization expense	<u>(67,316)</u>
Goodwill as of September 27, 2020	<u>\$ 605,846</u>

Impairment of Long-Lived Assets: The carrying amount of long-lived assets, including finite-lived intangible assets related to assets acquired in business acquisitions, is reviewed whenever events or circumstances exist which indicate that the carrying value of such assets may not be recoverable, or at least annually. When such conditions exist, the Company accumulates the estimated undiscounted cash flows over the remaining life of the related assets. If such amount is less than the carrying amount of the related assets, the Company adjusts the carrying amounts of such assets to their estimated fair value. No impairment loss was recorded during fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019.

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(Continued)



**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

Leases: For the Company's operating leases, the Company recognizes rent expenses on a straight-line basis over the terms of the leases. Accordingly, the Company records the difference between cash rent payments and the recognition of rent expenses as deferred rent liabilities, which are a component of other long-term liabilities in the consolidated balance sheets.

The Company periodically receives landlord-funded leasehold improvements that are recorded as tenant allowances, which are a component of other long-term liabilities in the consolidated balance sheets and are amortized as a reduction of rent expense over the noncancelable terms of the operating leases.

For certain franchised restaurants, the Company is the lessor or sublessor of properties on which certain franchisee restaurants are located. The properties are subleased to franchisees under operating leases. Rental income and rental expense for these operating leases are recognized on the straight-line basis over the terms of the leases.

Similarly, certain franchisee leases with third parties periodically require a guarantee of the franchisee/lessee performance on the lease. These guarantees range from a rolling 12-month window up to the full term of the respective lease (generally up to 10 years). The Company follows the guidance within Accounting Standards Codification ("ASC") 460 - *Guarantees* with respect to these arrangements.

The Company records a liability for the fair value of these guarantees at lease inception, which is adjusted throughout the duration of the guarantee. The Company determined that the fair value of its guarantees was immaterial as of September 27, 2020 and September 29, 2019. Refer to Note 7 - Commitments for additional information about the Company's lease commitments on franchisee leases.

Capitalized Leases: Capitalized leases are stated at the lesser of the present value of future minimum lease payments or the fair value of the leased property. The related amortization expense and imputed interest are charged against income in lieu of the lease rental expense. The amortization of assets under capitalized leases is calculated using the straight-line method over the term of the lease. As of September 27, 2020, the cost and accumulated amortization of assets under capitalized leases were \$887,566 and \$573,826, respectively. As of September 29, 2019, the cost and accumulated amortization of assets under capitalized leases were \$208,368 and \$89,318, respectively. Assets under capitalized leases consist of restaurant equipment and leasehold improvements.

Company-owned Restaurant Closure Costs and Impairments: The Company recognizes a charge and related reserve for future operating lease payments associated with Company-owned restaurants that are no longer being utilized in its current operations. The reserve is calculated using the present value of the remaining noncancelable lease payments after the cease use date less an estimate of subtenant income. If subtenant income is expected to be higher than the current lease payments, no reserve is recorded. Lease payments included in the closed store reserve are expected to be paid over the remaining terms of the respective leases. The Company's assumptions about subtenant income are based on its experience and knowledge of the area in which the closed property is located, guidance received from local brokers and agents, commercial market value analysts, and existing economic conditions. As part of its analysis, the Company may acquire third-party fair value reports, which provide independent estimates of the fair values of similar rental properties. Adjustments to the closed store reserve relate primarily to changes in subtenant income and other assumptions differing from original estimates, as well as reductions to the reserve resulting from periodic lease payments. Adjustments are recorded for changes in estimates in the period in which the change becomes known.

The Company closed one Company-owned restaurant (Southlake, Texas) during the period from December 31, 2019 to September 29, 2019. No Company-owned restaurants were closed during the fiscal year ended September 27, 2020.

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(Continued)

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

The Company's accrual for restaurant closure costs (included as a component of other long-term liabilities) was \$125,860 and \$215,861 as of September 27, 2020 and September 29, 2019, respectively.

Advertising Costs: Gross Brand Development Fund expenses of \$1,863,172 and \$1,742,889 for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019, respectively, were offset by \$1,480,347 and \$1,481,880 of advertising contributions to the Brand Development Fund by franchise restaurants for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019, respectively. Gross advertising, marketing, and related expenses were \$1,989,370 and \$1,836,547 for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019, respectively. Net consolidated advertising expenses totaled \$509,023 and \$354,667 for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019, respectively. Advertising expenses are included as a component of selling, general, and administrative expenses in the accompanying consolidated statements of operations and changes in member's equity and are recognized in the fiscal year incurred.

Loyalty Program: Loyalty program members earn points based on the money they spend at all Saladworks restaurants. Loyalty program members can redeem rewards, which the Company tracks on their behalf, for discounted food and beverages, promotional items, and other special in-store offers. The loyalty program is available at all Saladworks restaurants in the United States of America and the liability for any loyalty rewards is that of the participating restaurant. Franchise agreements require that franchisees reimburse the Company currently for the costs of operating the loyalty program, including marketing, promotion, communication with, and performing member services for loyalty program members. The fees paid by franchisees for the costs of operating the loyalty program are included as a component of franchise and royalty revenues in the consolidated statements of operations and changes in member's equity.

Gift Cards: SWBF sells Company gift cards to customers. There are no administrative fees on unused gift cards and the gift cards do not have an expiration date. Gift card sales are recorded as a liability to the gift card liability as a component of accounts payable and accrued expenses when sold and are recognized as revenue when either the gift card is redeemed, or the likelihood of the gift card being redeemed is remote.

Income Taxes: The Company is a single member limited liability company and has elected to be reported as a taxable entity. As such, the Company uses the liability method of accounting for income taxes. Under this method, deferred income tax assets and liabilities are determined based on differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes and are measured using the enacted income tax rates at which the resulting income taxes are expected to be paid. All deferred income tax assets and liabilities are reported as long-term on the consolidated balance sheets.

Uncertain Income Tax Positions: The Company recognizes an income tax position as a benefit only if it "more likely than not" that the income tax position would be sustained in an income tax examination, with an income tax examination being presumed to occur. The amount recognized is the largest amount of the income tax benefit that is greater than 50.00% likely of being realized on examination, with an examination being presumed to occur. For income tax positions not meeting the more-likely-than-not test, no income tax benefit is recorded. Management of the Company believes that with few exceptions, the Company is no longer subject to income tax examinations by any income tax authorities for fiscal years prior to 2017. The Company's significant income tax jurisdictions are the United States of America and the State of Pennsylvania. As of September 27, 2020 and September 29, 2019, the Company had no amounts recognized for uncertain income tax positions in its consolidated balance sheets. The Company does not expect the total amount of unrecognized income tax benefits to significantly change in the next 12 months. The Company's policy is to include interest and penalties as a component of income tax expense (benefit).

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(Continued)

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

Limited Liability Company: Since the Company is a limited liability company, no member, manager, agent, or employee of the Company shall be personally liable for the debts, obligations, or liabilities of the Company, whether arising in contract, tort, or otherwise, or for the acts or omissions of any other member, director, manager, agent, or employee of the Company, unless the individual has signed a specific personal guarantee. The duration of the Company is perpetual. As a limited liability company, the member's liability is limited to the amounts reflected in their respective member's equity account.

Concentration of Credit Risk: The Company maintains cash balances at one financial institution, which exceeded the threshold for insurance by the Federal Deposit Insurance Corporation ("FDIC"). The Company has not experienced any losses on such accounts and believes that it is not exposed to any significant credit risk on cash and cash equivalents.

Reclassifications: Certain amounts as of September 29, 2019 and for the period from December 31, 2018 to September 29, 2019 have been reclassified to conform with the presentation as of and for the fiscal year ended September 27, 2020. These reclassifications had no effect on total assets, net loss, and member's equity.

**NOTE 2 - ACCOUNTS PAYABLE AND ACCRUED EXPENSES**

Accounts payable and accrued expenses consisted of the following as of September 27, 2020 and September 29, 2019:

	<u>2020</u>	<u>2019</u>
Accounts payable	\$ 813,730	\$ 157,599
Accrued payroll and benefits	73,850	45,525
Accrued recruiting costs	-	225,000
Accrued severance	-	303,000
Gift card liability	146,312	91,239
Accrued other expenses	<u>493,133</u>	<u>337,693</u>
Total accounts payable and accrued expenses	<u>\$ 1,527,025</u>	<u>\$ 1,160,056</u>

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(Continued)

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 3 - IDENTIFIABLE INTANGIBLE ASSETS**

Identifiable intangible assets and related accumulated amortization consisted of the following as of September 27, 2020 and September 29, 2019:

<u>2020</u>	<u>Useful Lives</u>	<u>Gross Amount</u>	<u>Accumulated Amortization</u>	<u>Carrying Value</u>
Amortized identifiable intangible assets				
Customer loyalty program	10 years	\$ 1,100,000	\$ (581,556)	\$ 518,444
Unamortized identifiable intangible assets				
Trademarks/tradename	Indefinite	12,600,000	-	12,600,000
Vendor contracts	Indefinite	<u>900,000</u>	<u>-</u>	<u>900,000</u>
		<u>\$ 14,600,000</u>	<u>\$ (581,556)</u>	<u>\$ 14,018,444</u>
<u>2019</u>	<u>Useful Lives</u>	<u>Gross Amount</u>	<u>Accumulated Amortization</u>	<u>Carrying Value</u>
Amortized identifiable intangible assets				
Customer loyalty program	10 years	\$ 1,100,000	\$ (471,857)	\$ 628,143
Unamortized identifiable intangible assets				
Trademarks/tradename	Indefinite	12,600,000	-	12,600,000
Vendor contracts	Indefinite	<u>900,000</u>	<u>-</u>	<u>900,000</u>
		<u>\$ 14,600,000</u>	<u>\$ (471,857)</u>	<u>\$ 14,128,143</u>

Amortization expense for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019 was \$109,699 and \$82,266, respectively.

Amortization expense for fiscal years subsequent to September 27, 2020 is as follows:

Fiscal year 2021	\$ 109,910
Fiscal year 2022	109,910
Fiscal year 2023	109,910
Fiscal year 2024	109,910
Fiscal year 2025	<u>78,804</u>
	<u>\$ 518,444</u>

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(Continued)

**NOTE 4 - REVOLVING LINE OF CREDIT**

The Company entered into a credit agreement (the "2017 Credit Agreement") with a bank on March 30, 2017. The 2017 Credit Agreement provided for borrowings up to \$500,000 under a revolving line of credit. The 2017 Credit Agreement also provided for the issuance of letters of credit, which reduced the amount available under the revolving line of credit. Borrowings related to the revolving line of credit were secured by substantially all of the Company's assets.

Outstanding borrowings under the revolving line of credit accrued interest at the bank's prime rate plus an applicable margin of 2.00% or at a London Interbank Offer Rate ("LIBOR") based rate plus an applicable margin of 3.00%, as defined in the 2017 Credit Agreement. Interest was payable at the end of each month. In addition, the Company paid a commitment fee at the end of each quarter based on the average daily undrawn available amount under the revolving line of credit of 0.50%. As of September 29, 2019, the balance outstanding on the revolving line of credit was \$278,187. The revolving line of credit was fully repaid on January 29, 2020 as a result of the Company obtaining new financing. The Company does not have a revolving line of credit as of September 27, 2020.

Under the 2017 Credit Agreement, the Company was required to maintain compliance with certain financial and nonfinancial covenants. As of September 29, 2019, the Company was in compliance with the financial covenants of the 2017 Credit Agreement. The 2017 Credit Agreement was fully guaranteed by an entity that ultimately controls the Company ("Parent of the Company").

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(Continued)

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 5 - LONG-TERM DEBT**

Long-term debt consisted of the following as of September 27, 2020 and September 29, 2019:

	<u>2020</u>	<u>2019</u>
Term loan entered into as part of the 2017 Credit Agreement discussed in Note 4, original principal amount of \$12,000,000, originally scheduled maturity of March 30, 2020; was secured by substantially all of the Company's assets. Interest, payable at the end of each month, was equal to the bank's prime rate plus an applicable margin of 2.00% or at a LIBOR based rate plus an applicable margin of 3.00%. The effective interest rate was 6.75% as of September 29, 2019. The term loan was fully repaid on January 29, 2020.	\$ -	\$ 12,000,000
Borrowing entered into in conjunction with the Parent of the Company on January 29, 2020, original principal balance of \$12,500,000, and a maturity date of October 7, 2021. Interest, payable at the end of each month, is equal to the bank's reference rate, as defined within the credit agreement, plus an applicable margin of 0.50% or a LIBOR based rate plus an applicable margin of 1.75%. The effective interest rate was 2.06% as of September 27, 2020.	12,500,000	-
Additional borrowing entered into in conjunction with the Parent of the Company on April 1, 2020, original principal balance of \$750,000, and a maturity date of October 7, 2021. Interest, payable at the end of each month, is equal to the bank's reference rate, as defined within the credit agreement, plus an applicable margin of 0.50% or a LIBOR based rate plus an applicable margin of 1.75%. The effective interest rate was 2.02% as of September 27, 2020.	750,000	-
Note payable assumed at acquisition of the Company, payable in monthly principal and interest installments of \$1,272 which commenced on December 1, 2013, secured by assets of a purchased restaurant. The note payable bears an interest rate of 5.00% and matures on November 1, 2020.	1,194	16,064
	<u>13,251,194</u>	<u>12,016,064</u>
Less current portion	(1,194)	(14,797)
Less amounts representing deferred financing costs	-	<u>(98,661)</u>
Long-term debt	<u>\$ 13,250,000</u>	<u>\$ 11,902,606</u>

(Continued)

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 5 - LONG-TERM DEBT** (Continued)

The borrowings entered into in conjunction with the Parent of the Company during the fiscal year ended September 27, 2020 are secured by assets of the Parent of the Company and do not have financial covenants calculated based on the consolidated financial statements of the Company.

The term loan entered into as part of the 2017 Credit Agreement was collateralized by the same security interests and was subject to the same financial covenants related to the revolving line of credit, as discussed in Note 4.

For the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019, the Company reported a net loss and negative cash flows from operations. Additionally, the maturity date of October 7, 2021 on the Company's borrowings described above, aggregating \$13,250,000, is within one year from the date the consolidated financial statements are available to be issued. The Company has obtained a commitment from the Parent of the Company to fund the operations of the Company and all liabilities of the Company as they come due through at least January 31, 2022. This commitment includes the potential repayment of the Company's borrowings described above.

As a result of the economic uncertainty stemming from the impact of the coronavirus, on April 28, 2020, the Company received a Paycheck Protection Program ("PPP") loan in the principal amount of \$728,300 from the United States of America Small Business Administration ("SBA"). The PPP loan has a stated interest rate of 1.00% per annum and no payments of principal or interest are required until the end of a statutorily provided deferral period, which occurs when the SBA concludes on the amount of the loan that will be forgiven. The contractual maturity date of the loan is April 28, 2022.

Under the terms of the PPP, a PPP loan provides for conditional forgiveness if the Company utilizes the loan proceeds on admissible expenses, including qualifying payroll, rent, and utility expenses, and maintains employment and compensation levels for a specified period of time. Although the Company believes it is reasonably assured the PPP loan will be forgiven, ultimate forgiveness is also conditioned upon the SBA concurring with management of the Company's good-faith assessment that the current economic uncertainty made the loan request necessary to support ongoing operations and the loan proceeds were used for admissible expenses. If the Company is later determined to have violated the provisions of the PPP, the Company may be required to repay the PPP loan in its entirety and/or be subject to additional penalties.

The Company has elected to account for its PPP loan as an in-substance grant in accordance with International Accounting Standard ("IAS") 20, Accounting for Government Grants and Disclosure of Government Assistance. Under IAS 20, the PPP loan proceeds are initially recorded as a deferred grant income liability and subsequently recognized on a systematic basis into other income when the expenses for which the grant is intended to compensate are incurred and forgiveness of the loan is reasonably assured. While formal forgiveness has not yet been obtained, as of September 27, 2020, the Company has recognized the entire loan balance of \$728,300 as a component of other income in the consolidated statement of operations and changes in member's equity consistent with the amount of qualifying expenses incurred during the fiscal year ended September 27, 2020. Cash inflows and cash outflows from the PPP loan are classified as operating cash flows.

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(Continued)

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 6 - INCOME TAXES**

Income tax expense (benefit) for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 31, 2019 consisted of the following:

	<u>2020</u>	<u>2019</u>
Current income tax expense (benefit)	\$ 3,957	\$ (31,489)
Deferred income tax benefit	(205,281)	(419,896)
Change in deferred income tax valuation allowance	<u>205,281</u>	<u>419,896</u>
Income tax expense (benefit)	<u>\$ 3,957</u>	<u>\$ (31,489)</u>

The difference between the federal statutory income tax rate and the Company's effective income tax rate for the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019 was primarily due to the impact of permanent differences, the impact of state income taxes, and the impact of the valuation allowance.

Deferred income tax assets (liabilities) consisted of the following as of September 27, 2020 and September 29, 2019:

	<u>2020</u>	<u>2019</u>
Net operating losses	\$ 2,681,962	\$ 1,920,588
Impairment of property and equipment	88,797	88,797
Allowance for doubtful accounts	-	1,052
Other	<u>49,704</u>	<u>167,077</u>
Total deferred income tax assets	2,820,463	2,177,514
Identifiable intangible assets	(1,034,884)	(782,264)
Property and equipment	(391,876)	(196,788)
Goodwill	(43,818)	(49,718)
Prepaid expenses	<u>(15,314)</u>	<u>(19,454)</u>
Total deferred income tax liabilities	(1,485,892)	(1,048,224)
Valuation allowance	<u>(1,334,571)</u>	<u>(1,129,290)</u>
Net deferred income tax assets (liabilities)	<u>\$ -</u>	<u>\$ -</u>

The Company had federal and state net operating losses totaling \$10,620,994 and \$8,531,133 respectively, as of September 27, 2020 and \$7,575,456 and \$5,489,522, respectively, as of September 29, 2019. Federal net operating losses totaling \$6,607,196 and \$3,561,658 as of September 27, 2020 and September 29, 2019, respectively, carryforward indefinitely. The remaining carryforwards start to expire in the fiscal year ending September 28, 2036.

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(Continued)



RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 6 - INCOME TAXES** (Continued)

Significant judgment is required in determining whether the Company's deferred income tax assets will be realized in full or in part. A valuation allowance is required for deferred income tax assets when it is more likely than not that all or some portion of specific deferred income tax assets will not be realized. Accordingly, as of September 27, 2020 and September 29, 2019, the net deferred income tax assets have been reduced by a full valuation allowance due primarily to the fact that the Company has generated a cumulative net loss since the inception of its operations.

**NOTE 7 - COMMITMENTS**

Operating Leases: The Company has entered into various agreements for marketing, advertising, employee recruiting, franchise brokers, and public relations. These agreements have various terms ranging from month-to-month to three-year terms. All payments made for these services are charged to expense in the fiscal year costs are incurred.

The Company leases its administrative offices in West Conshohocken, Pennsylvania, which expires September 30, 2024. The Company is also responsible for its pro-rata share of real estate taxes and other operating expenses under this lease.

Under the terms of various lease agreements, the Company acts as an over-tenant for premises that are subleased to certain franchisees. For these leases, the franchisees are responsible for minimum rental payments and other operating expenses. Should these franchisees default on these sublease agreements, the Company is responsible for payment on such leases.

The Company is obligated under these operating leases for future annual minimum lease payments for fiscal years subsequent to September 27, 2020 in the amounts of:

	<u>Company Commitment</u>	<u>Sublease and Guarantor Commitment</u>	<u>Net Commitment</u>
Fiscal year 2021	\$ 872,113	\$ (442,571)	\$ 429,542
Fiscal year 2022	798,711	(361,599)	437,112
Fiscal year 2023	727,935	(283,063)	444,872
Fiscal year 2024	610,843	(193,872)	416,971
Fiscal year 2025	408,083	(197,399)	210,684
Thereafter	<u>871,846</u>	<u>(505,922)</u>	<u>365,924</u>
	<u>\$ 4,289,531</u>	<u>\$ (1,984,426)</u>	<u>\$ 2,305,105</u>

In addition, the Company acts as guarantor for premises which are leased to certain franchisees with future commitments (included above) totaling approximately \$47,000 through the fiscal year ending September 26, 2021.

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(Continued)

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 7 - COMMITMENTS** (Continued)

Capital Lease and Sale-leaseback Transactions: During the fiscal year ended December 30, 2018, the Company entered into a master equipment lease agreement (“First Sale-leaseback Agreement”) with a financial institution. The First Sale-leaseback Agreement allows the Company to sell individual assets to the buyer/lessor for the original purchase price of the respective asset(s) and simultaneously lease the same assets from the buyer/lessor. The maximum draw on the First Sale-leaseback Agreement is \$1,000,000 and the agreement has a 32 month term. The arrangement is accounted for as a capital lease due to a bargain purchase option at the end of the lease and also as a result of the present value of cash flows under the lease exceeding 90.00% of the fair market of assets leased at the beginning of the lease term. The monthly payment is adjusted based upon the amounts sold and leased back. During the period ended September 29, 2019, the Company sold/leased assets with a carrying value of \$514,705 for proceeds of \$514,705. No amounts were sold/leased under the First Sale-leaseback Agreement during the fiscal year ended September 27, 2020.

During the fiscal year ended September 27, 2020, the Company entered into a master lease agreement (“Second Sale-leaseback Agreement”) with a different financial institution. The Second Sale-Leaseback Agreement allows the Company to sell individual assets to the buyer/lessor for the original purchase price of the respective asset(s) and simultaneously lease the same assets from the buyer/lessor. Assets under the Second Sale-leaseback Agreement are leased for a period of 36 months. The arrangement is accounted for as a capital lease due to a bargain purchase option at the end of the lease and also as a result of the present value of cash flows under the lease exceeding 90.00% of the fair market of assets leased at the beginning of the lease term. The monthly payment is adjusted based upon the amounts sold and leased back. During the fiscal year ended September 27, 2020, the Company sold/leased assets with a carrying value of \$380,047 for proceeds of \$380,047.

The future minimum rental commitments for future fiscal years for all capitalized leases as of September 27, 2020 were are as follows:

Fiscal year 2021	\$ 343,978
Fiscal year 2022	334,188
Fiscal year 2023	<u>164,892</u>
Total minimum lease payments	843,058
Amount representing interest	<u>(153,300)</u>
Present value of net minimum lease payments	689,758
Current portion	<u>251,900</u>
Long-term portion	<u>\$ 437,858</u>

Interest rates on capitalized leases range from approximately 14.00% to approximately 20.00%. Amortization expense for assets under capitalized leases is recorded as a component of depreciation expense in the consolidated statements of operations and changes in member’s equity.

On October 1, 2020, the Company entered into an agreement to sell assets to a third party with a carrying value of \$159,070 for proceeds of \$159,070 under the Second Sale-leaseback Agreement.

As a result of the impact of the coronavirus, the Company did receive certain lease concessions related to its operating and capital leases in the form of payment deferrals. In accordance with guidance from the FASB, the Company elected to account for the lease concessions related to the effects of the coronavirus consistent with how those concessions would be accounted for as though enforceable rights and obligations for the concessions existed in the lease contracts.

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(Continued)

RESTAURANT CO., LLC  
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
September 27, 2020 and September 29, 2019

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**NOTE 7 - COMMITMENTS** (Continued)

Management of the Company believes application of this election is appropriate as the lease concessions did not result in a substantial increase in the rights of the lessor or the obligations of the lessee. Accordingly, any concessions were accounted for as though no changes to the lease contract took place and the Company continued to recognize lease expense with a corresponding liability for amounts owed to the lessor.

**NOTE 8 - RETIREMENT PLAN**

The Company has a 401(k) defined contribution plan (the "Plan") which is an employee salary deferral plan only for the benefit of all eligible employees of the Company.

All employees of the Company who have attained age 21 and have completed one year of service are eligible to participate in the Plan. Employee salary deferrals are subject to statutory limits. Participants are immediately vested in their elective deferral contributions plus actual earnings thereon. The Company made contributions to this plan totaling \$66,452 and \$49,534 during the fiscal year ended September 27, 2020 and for period from December 31, 2018 to September 29, 2019, respectively.

**NOTE 9 - RELATED PARTIES**

The Company receives management and oversight services from the Parent of the Company. The Company is required to pay management fees of \$250,000 per fiscal year under this contract. For the fiscal year ended September 27, 2020 and for the period from December 31, 2018 to September 29, 2019, the Company incurred \$250,000 and \$187,498 of management fees, respectively, and included this amount as management fees on the consolidated statements of operations and changes in member's equity. As of September 27, 2020, and September 29, 2019, \$323,229 and \$62,498, respectively, was owed to the Parent of the Company for management and oversight services and was included as a component of accounts payable and accrued expenses within the consolidated balance sheets.

As outlined in Note 5 – Long-term Debt, the Company is party to a credit agreement in conjunction with the Parent of the Company.

**NOTE 10 - SUBSEQUENT EVENTS**

The Company has evaluated the impact of any subsequent events on the consolidated financial statements through December 29, 2020, which is the date the consolidated financial statements were available to be issued.

Effective December 16, 2020, the Company signed an asset purchase agreement to purchase Garbanzo Mediterranean Grill, LLC and certain affiliated entities in exchange for approximately \$758,000 in cash and a \$350,000 promissory note. This acquisition represents a new franchise restaurant concept for the Company.

Effective December 28, 2020, the Company signed an asset purchase agreement to purchase Frutta Bowls Franchising, LLC in exchange for approximately \$693,000 in cash. This acquisition represents a new franchise restaurant concept for the Company.

The acquisitions outlined above were funded via equity contributions from the Parent of the Company.

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THESE FINANCIAL STATEMENTS ARE PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAD AUDITED THESE FIGURES OR EXPRESSED HIS/HER OPINION WITH REGARD TO THE CONTENT OR FORM.

# **RESTAURANT CO., LLC dba WOWorks**

Interim Consolidated Financial Statements

For the 3 months ended December 25, 2022

RESTAURANT CO., LLC dba WOWorks Consolidated Balance Sheets	<i>December 25, 2022</i>	<i>September 25, 2022</i>
<b>ASSETS</b>		
<b>Current Assets</b>		
Cash	\$ 1,364,245	\$ 1,781,913
Accounts receivable, net of allowance for doubtful accounts	2,421,541	2,285,910
Prepaid expenses	338,441	295,033
Other current assets	<u>449,702</u>	<u>442,282</u>
	<u>4,573,930</u>	<u>4,805,138</u>
Property and equipment		
Furnitures, fixtures and equipment	1,969,625	1,926,757
Leasehold improvements	1,949,054	1,940,524
Architectural designs	435,513	423,013
Computer software	<u>819,686</u>	<u>627,175</u>
	5,173,878	4,917,469
Less: accumulated depreciation	<u>(1,296,633)</u>	<u>(1,092,861)</u>
<b>Property and Equipment - net</b>	<u>3,877,245</u>	<u>3,824,608</u>
<b>Other Assets</b>		
Identifiable intangible assets, net of accumulated amortization	26,786,387	27,146,225
Goodwill, net of accumulated amortization	6,202,869	6,354,451
Other long-term assets	<u>272,141</u>	<u>314,579</u>
	<u>33,261,396</u>	<u>33,815,254</u>
	<b>\$ 41,712,571</b>	<b>\$ 42,445,001</b>
<b>LIABILITIES AND MEMBER'S EQUITY</b>		
<b>Current Liabilities</b>		
Accounts payable and accrued expenses	\$ 3,127,409	\$ 3,101,655
Current portion of promissory notes	123,246	122,632
Current portion of other long-term liabilities	630,044	638,658
Deferred revenue	1,498,644	1,180,297
Current portion of capital lease liability	<u>614,046</u>	<u>696,726</u>
	<u>5,993,389</u>	<u>5,739,968</u>
<b>Long-Term Liabilities</b>		
Long-term debt	26,650,990	26,646,926
Promissory notes, net of current portion	5,318,056	5,407,941
Capital lease liability, net of current portion	781,998	848,927
Other long-term liabilities, net of current portion	<u>462,115</u>	<u>426,008</u>
	<u>33,213,158</u>	<u>33,329,803</u>
<b>Total Liabilities</b>	39,206,547	39,069,771
<b>Member's Equity</b>	<u>2,506,024</u>	<u>3,375,230</u>
	<b>\$ 41,712,571</b>	<b>\$ 42,445,001</b>

<b>RESTAURANT CO., LLC dba WOWorks</b>	<i>December 25, 2022</i>	<i>September 25, 2022</i>
Consolidated Statement of Operations and Changes in Member's Equity	<u>3 Months</u>	<u>12 months</u>
<b>Revenue</b>		
Franchise and royalty	\$ 2,426,144	\$ 7,593,742
Food and beverage	3,765,785	11,132,841
Support and marketing fees	2,129,691	6,728,583
Rental income from subleases	<u>420,216</u>	<u>440,348</u>
	<b><u>8,741,836</u></b>	<b><u>25,895,514</u></b>
<b>Operating Costs</b>		
Selling, general and administrative	4,342,645	13,139,994
Food and beverage	1,320,130	3,793,968
Restaurant operating	1,806,180	5,510,258
Rental expense from subleases	420,216	440,348
Depreciation and amortization	<u>662,898</u>	<u>1,487,050</u>
	<b><u>8,552,069</u></b>	<b><u>24,371,616</u></b>
<b>Income Before Other Expenses and Provision for Income Tax</b>	<b><u>189,767</u></b>	<b><u>1,523,897</u></b>
<b>Other (Income) Expenses</b>		
Interest expense	1,060,544	1,991,299
Loss on property closures	-	671,924
Acquisition expenses	-	1,023,000
Management fees	62,499	250,000
Other expense/(Income)	<u>(41,543)</u>	<u>3,381</u>
	<b><u>1,081,500</u></b>	<b><u>3,939,604</u></b>
<b>Loss Before Provision for Income Tax</b>	<b>(891,733)</b>	<b>(2,415,706)</b>
<i>Provision for Income Tax</i>	<u>(22,527)</u>	<u>(132,769)</u>
<b>Net Loss</b>	<b><u>\$ (869,206)</u></b>	<b><u>\$ (2,282,938)</u></b>
<b>Member's Equity - Beginning</b>	<b>3,375,230</b>	<b>5,658,168</b>
<i>Net Loss</i>	<u>(869,206)</u>	<u>(2,282,938)</u>
<b>Member's Equity - Ending</b>	<b><u>\$ 2,506,024</u></b>	<b><u>\$ 3,375,230</u></b>

RESTAURANT CO., LLC dba WOWorks Consolidated Statements of Cash Flows	<i>September 25, 2022</i>	<i>September 26, 2021</i>
	<u>3 Months</u>	<u>12 months</u>
<b>Cash Flows from Operating Activities</b>		
Net Loss	\$ (869,206)	\$ (2,282,938)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Depreciation and amortization	662,898	1,487,050
Amortization of deferred financing costs	74,064	165,462
Loss on property closures	-	671,924
Deferred revenue	318,347	156,831
Changes in assets and liabilities :		
(increase) decrease in:		
Accounts receivable	(135,631)	(808,690)
Prepaid expenses	(43,409)	166,661
Other current assets	(7,420)	(241,078)
Other long-term assets	42,438	23,361
Accounts payable and accrued expenses	25,754	697,108
Other long-term liabilities	36,106	(23,963)
	<u>103,942</u>	<u>11,727</u>
<b>Cash Flows from Investment Activities</b>		
Payments for acquisitions	-	(16,673,581)
Proceeds from the sales of property and equipment	-	1,935
Purchases of property and equipment	(228,804)	(541,944)
	<u>(228,804)</u>	<u>(17,213,590)</u>
<b>Cash Flows from Financing Activities</b>		
Net borrowings (payments) from long-term debt	(70,000)	13,231,464
Principal payments on capital lease liability	(133,534)	(533,190)
Principal increases (payments) on promissory notes	(89,271)	4,594,310
	<u>(292,805)</u>	<u>17,292,584</u>
<b>Net Increase (Decrease) in Cash</b>	<b>\$ (417,668)</b>	<b>\$ 90,721</b>
Cash - beginning	1,781,913	1,691,192
<b>Cash - end</b>	<b><u>\$ 1,364,245</u></b>	<b><u>\$ 1,781,913</u></b>



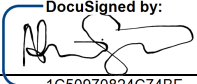
## GUARANTEE OF PERFORMANCE

For value received, Restaurant Co., LLC, dba WOWorks, a Delaware limited liability company (the “Guarantor”) located at 3135 1st Avenue N., Suite 15459, St. Petersburg, Florida 33733, absolutely and unconditionally guarantees to assume the duties and obligations of Zoup Franchising Co., LLC, located at 3135 1st Avenue N., Suite 15459, St. Petersburg, Florida 33733 (the “Franchisor”), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2023 Franchise Disclosure Document, as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time. This guarantee continues until all such obligations of the Franchisor under its franchise registrations and the Franchise Agreement are satisfied or until the liability of Franchisor to its franchisees under the Franchise Agreement has been completely discharged, whichever first occurs. The Guarantor is not discharged from liability if a claim by a franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. The Guarantor does not waive receipt of notice of default on the part of the Franchisor. This guarantee is binding on the Guarantor and its successors and assigns.

The Guarantor signs this Guarantee in Niskayuna on the day of April 2, 2023 | 11:51 AM PDT

Guarantor:

**Restaurant Co., LLC, dba WOWorks**

By:  \_\_\_\_\_  
1C50970824C74BF...

Name: Alain Souligny

Title: Chief Financial Officer

**EXHIBIT F**

**AGENCIES/AGENTS FOR SERVICE OF PROCESS**

This list includes the names, addresses and telephone numbers of state agencies having responsibility for franchising disclosure/registration laws, and serving as our agents for service of process (to the extent that we are registered in their states). This list also includes the names, addresses and telephone numbers of other agencies, companies or entities serving as our agents for service of process.

<b>State</b>	<b>State Agency</b>	<b>Agent for Service of Process</b>
CALIFORNIA	California Commissioner of Financial Protection & Innovation Department of Financial Protection & Innovation 320 West 4 <sup>th</sup> Street, Suite 750 Los Angeles, CA 90013 (213) 576-7505 Toll-free (866-275-2677)	California Commissioner of Financial Protection & Innovation
HAWAII	Business Registration Division Department of Commerce and Consumer Affairs 335 Merchant Street, Room 203 Honolulu, HI 96813 (808) 586-2722	Commissioner of Securities of the State of Hawaii
ILLINOIS	Office of Attorney General Franchise Division 500 South Second Street Springfield, IL 62706 (217) 782-4465	Illinois Attorney General
INDIANA	Indiana Secretary of State Securities Division 302 West Washington St., Room E-111 Indianapolis, IN 46204 (317) 232-6681	Indiana Secretary of State 201 State House Indianapolis, IN 46204
MARYLAND	Office of the Attorney General Division of Securities 200 St. Paul Place Baltimore, MD 21202-2020 (410) 576-6360	Maryland Securities Commissioner 200 St. Paul Place Baltimore, MD 21202-2020 (410) 576-6360
MICHIGAN	Michigan Department of Attorney General Consumer Protection Division Antitrust and Franchise Unit 670 Law Building Lansing, MI 48913 (517) 373-7117	Michigan Department of Commerce, Corporations and Securities Bureau
MINNESOTA	Minnesota Department of Commerce 85 7 <sup>th</sup> Place East, Suite 500 St. Paul, MN 55101-2198 (651) 296-4026	Minnesota Commissioner of Commerce

<b>State</b>	<b>State Agency</b>	<b>Agent for Service of Process</b>
NEW YORK	NYS Department of Law Investor Protection Bureau 28 Liberty Street, 21st Floor New York, NY 10005 (212) 416-8222	Attn: New York Secretary of State New York Department of State One Commerce Plaza, 99 Washington Avenue, 6 <sup>th</sup> Floor Albany, NY 11231-0001 (518) 473-2492
NORTH DAKOTA	North Dakota Securities Department 600 East Boulevard, 5 <sup>th</sup> Floor Bismarck, ND 58505-0510 (701) 328-4712	North Dakota Securities Commissioner
RHODE ISLAND	Department of Business Regulation Division of Securities 1511 Pontiac Avenue, Building 69-1 Cranston, RI 02920 (401) 462-9585	Director of Rhode Island Department of Business Regulation
SOUTH DAKOTA	Division of Insurance Securities Regulation 124 South Euclid Suite 104 Pierre, SD 57501 (605) 773-3563	Director of South Dakota Division of Insurance – Securities Regulation
VIRGINIA	State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street, 9 <sup>th</sup> Floor Richmond, VA 23219 (804) 371-9051	Clerk of State Corporation Commission 1300 East Main Street, 1 <sup>st</sup> Floor Richmond, VA 23219 (804) 371-9733
WASHINGTON	Department of Financial Institutions Securities Division P.O. Box 9033 Olympia, WA 98507-9033	Director of Department of Financial Institutions Securities Division 150 Israel Road SW Tumwater, WA 98501 (360) 902-8760
WISCONSIN	Wisconsin Securities Commissioner Securities and Franchise Registration 345 W. Washington Avenue Madison, WI 53703 (608) 266-8559	Commissioner of Securities of Wisconsin

**EXHIBIT G**

**SAMPLE CONSENT TO TRANSFER AND TERMINATION AND RELEASE AGREEMENT**  
**ZOUP! # \_\_\_\_\_**

This AGREEMENT, made this \_\_\_\_\_ day of, 201\_\_\_\_, by and among Zoup Franchising Co., LLC, an Illinois limited liability company (“Franchisor”), \_\_\_\_\_ (herein “Individual Transferors”), \_\_\_\_\_ a \_\_\_\_\_ (herein “Franchisee”), \_\_\_\_\_ (herein “Individual Transferees”) and \_\_\_\_\_, a \_\_\_\_\_ corporation (herein “Transferee Corporation”).

**BACKGROUND**

Franchisee, an entity, and Individual Transferors are parties to a Franchise Agreement with Franchisor dated the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (herein the “Franchise Agreement”), whereby Individual Transferors and Franchisee were granted the right to open and operate a Zoup! restaurant at \_\_\_\_\_ (the “Zoup! Restaurant”). Individual Transferors and/or Franchisee have entered into an agreement with Transferee Corporation and/or Individual Transferees by which the Zoup! Restaurant is being transferred, sold or otherwise assigned to Transferee Corporation and/or Individual Transferees. Franchisor has agreed to permit said transfer upon the terms and conditions set forth herein.

**AGREEMENT**

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, acknowledged by each of them to be satisfactory and adequate, and each of said parties intending to be legally bound hereby, agree as follows:

1. Transferee Corporation and Individual Transferees shall simultaneously execute Franchisor’s current form Franchise Agreement (the “New Franchise Agreement”).
2. Transferee Corporation covenants and agrees that it will at all times during the term of the New Franchise Agreement, including any renewal Terms, observe and perform each and every one of the covenants, obligations and undertakings required to be performed or observed under the New Franchise Agreement, including by illustration and not limitation, the payment of all sums due to Franchisor under the New Franchise Agreement.
3. Franchisee and Individual Transferors, jointly and severally, shall continue to be bound by the following provisions of the Franchise Agreement: (i) the confidentiality set forth in Section 5; (ii) the post-termination obligations respecting the Franchise set forth in Section 17; and (iii) the indemnification obligation set forth in Section 13.
4. In further consideration of Franchisor granting its consent to the transfer with respect to this Agreement, Individual Transferors and Franchisee, and their respective shareholders, members, partners, directors, officers, employees, successors, spouses, heirs, representatives, and assigns, hereby release and forever discharge Franchisor and its successors and assigns, and its respective shareholders, members, partners, officers, directors, employees, and agents, in their corporate and individuals capacities, by and from all liabilities whatsoever in law or in equity which against Franchisor the Individual Transferors or Franchisee ever had or now have, or by reason of any cause, matter or thing whatsoever existing up until the date of this Agreement.

[FOR CALIFORNIA RESIDENTS]

INDIVIDUAL TRANSFERORS AND FRANCHISEE, AND THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, PARTNERS, DIRECTORS, OFFICERS, SUCCESSORS,

SPOUSES, HEIRS, REPRESENTATIVES AND ASSIGNS ACKNOWLEDGE THAT THEY ARE FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES AS FOLLOWS:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

INDIVIDUAL TRANSFERORS AND FRANCHISEE, AND THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, PARTNERS, DIRECTORS, OFFICERS, SUCCESSORS, SPOUSES, HEIRS, REPRESENTATIVES AND ASSIGNS, BEING AWARE OF THIS CODE SECTION, HEREBY EXPRESSLY WAIVE ALL OF THEIR RIGHTS THEREUNDER AS WELL AS UNDER ANY OTHER STATUTES OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT OF ANY APPLICABLE JURISDICTION, INCLUDING, WITHOUT LIMITATION, CALIFORNIA AND/OR [JURISDICTIONS OF FRANCHISEE(S)' RESIDENCE AND LOCATION OF FRANCHISED UNITS].

5. Upon execution of this Agreement, Franchisor, and its respective shareholders, members, partners, directors, officers, successors, representatives and assigns, hereby releases and forever discharge Individual Transferors and Franchisee, and their respective shareholders, members, partners, directors, officers, employees, successors, heirs, representatives and assigns, in their corporate and individual capacities, by and from all liabilities whatsoever in law or in equity, which against Individual Transferors, or Franchisee the Franchisor ever had or now has, or by reason of any cause, matter or thing whatsoever arising from the negotiation of, execution of, performance of or transfer of the Franchise Agreement, existing up until the date of this Agreement.
6. Individual Transferees, jointly and severally, hereby represent that: (i) each has read the New Franchise Agreement and agree to be bound by its terms; (ii) each unconditionally and irrevocably guarantees and acts as surety for the full, prompt and complete payment and performance of all or any of the indebtedness, liabilities and obligations of Transferee Corporation arising, incurred or evidenced pursuant to the New Franchise Agreement; (iii) each agrees that their individual obligations as provided herein shall be construed as an absolute, continuing and unlimited guarantee and surety of payment and performance; and (iv) that Franchisor shall not be required to proceed against Transferee Corporation before resorting to each Individual Transferee, jointly and severally, for payment and performance of all or any of the indebtedness, liabilities and obligations arising, incurred or evidenced pursuant to this Agreement or the New Franchise Agreement.
7. Franchisor shall be paid a Transfer Fee in the amount of (\$ ).
8. Individual Transferees shall have successfully completed Franchisor's training program prior to the date of transfer.
9. Individual Transferors and Franchisee must be current in all obligations to Franchisor.
10. Individual Transferor and Franchisee must be current in all obligations to vendors, including, but not limited to, the landlord and suppliers of inventory or services for the operation of the Zoup! Restaurant. Individual Transferor and Franchisee shall provide proof of all final payments to such vendors.
11. All terms and conditions of the Franchise Agreement and New Franchise Agreement are incorporated herein as if fully set forth.

IN WITNESS WHEREOF, the parties set their hands and seals effective the date set forth above.

**FRANCHISEE:**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**TRANSFeree CORPORATION:**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**INDIVIDUAL TRANSFERORS:**

\_\_\_\_\_

\_\_\_\_\_

**INDIVIDUAL TRANSFEREES:**

\_\_\_\_\_

\_\_\_\_\_

**FRANCHISOR:**

ZOUP FRANCHISING CO., LLC

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**EXHIBIT H**

**SYSCO APPLICATION AND AGREEMENT**



## Customer Account Application

**Sysco Philadelphia, LLC**  
an affiliate of Sysco Corporation

600 Packer Avenue  
Philadelphia, PA 19148



So we deliver accurate orders, on time, to the right person, at the right place...

So we understand your company's history...

So the products and services we offer fit your needs exactly...

So we're familiar with your professional support people...

So we understand your company's personality in the marketplace...

MARKETING ASSOCIATES NAME & CODE: \_\_\_\_\_

WE'D LIKE YOUR BILLING AND SHIPPING ADDRESSES:

DATE \_\_\_\_\_

SHIPPING ADDRESS:

DBA TRADE NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE, ZIP+4 \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_

FEDERAL TAX ID \_\_\_\_\_

BILLING ADDRESS:

LEGAL NAME OF COMPANY (CORPORATE, PARTNERSHIP OR PROPRIETORSHIP NAME) \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE, ZIP+4 \_\_\_\_\_

ACCOUNTS PAYABLE CONTACT AND PHONE NUMBER \_\_\_\_\_

A/P FAX NUMBER \_\_\_\_\_ A/P EMAIL ADDRESS \_\_\_\_\_

SHOULD YOU HAVE MULTIPLE UNITS PLEASE ATTACH A COMPLETE LIST

METHOD OF STATEMENT DELIVERY MAIL \_\_\_\_\_ EMAIL \_\_\_\_\_ FAX \_\_\_\_\_

TELL US THE FACTS ABOUT YOUR BUSINESS:

PROPRIETORSHIP  PARTNERSHIP  LIMITED PARTNERSHIP  CORPORATION (State incorporated in \_\_\_\_\_)  LIMITED LIABILITY COMPANY  NON-PROFIT

NEW OWNER?  YES  NO PURCHASE DATE \_\_\_\_\_ LENGTH OF PRESENT OWNERSHIP \_\_\_\_\_

NEW BUSINESS?  YES  NO LENGTH OF TIME IN BUSINESS \_\_\_\_\_ LENGTH OF PRESENT OWNERSHIP \_\_\_\_\_

BUILDING/FACILITIES:  OWNED  LEASED OWNER'S NAME \_\_\_\_\_

ARE THE APPLICANT(S) PARTY TO ANY PENDING LITIGATION OR LEGAL PROCEEDINGS?  YES  NO

HAVE YOU EVER DONE BUSINESS OR DO YOU HAVE EXISTING ACCOUNTS WITH ANY SYSCO ENTITY?  YES  NO

PROVIDE THE FOLLOWING INFORMATION FOR INDIVIDUAL PROPRIETORS, GENERAL PARTNERS OR CORPORATE OFFICERS:

NAME AND TITLE \_\_\_\_\_ NAME AND TITLE \_\_\_\_\_ NAME AND TITLE \_\_\_\_\_

HOME ADDRESS \_\_\_\_\_ HOME ADDRESS \_\_\_\_\_ HOME ADDRESS \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_ CITY, STATE, ZIP \_\_\_\_\_ CITY, STATE, ZIP \_\_\_\_\_

HOME PHONE NO. \_\_\_\_\_ HOME PHONE NO. \_\_\_\_\_ HOME PHONE NO. \_\_\_\_\_

SOCIAL SECURITY NO. %OWNERSHIP \_\_\_\_\_ SOCIAL SECURITY NO. %OWNERSHIP \_\_\_\_\_ SOCIAL SECURITY NO. %OWNERSHIP \_\_\_\_\_

DRIVER'S LICENSE NO. STATE \_\_\_\_\_ DRIVER'S LICENSE NO. STATE \_\_\_\_\_ DRIVER'S LICENSE NO. STATE \_\_\_\_\_

TELL US ABOUT YOUR OPERATION:

TYPE OF BUSINESS:  RESTAURANT/FINE DINING  FAST FOOD  FAMILY  MOTEL/HOTEL  CAPACITY \_\_\_\_\_  INSTITUTIONAL

HOSPITAL  NURSING HOME NUMBER OF BEDS \_\_\_\_\_  OTHER (please specify) \_\_\_\_\_

CUISINE \_\_\_\_\_

GENERAL INFORMATION: WEEKLY PURCHASES \$ \_\_\_\_\_ MONTHLY SALES VOLUME \$ \_\_\_\_\_ NO. OF EMPLOYEES \_\_\_\_\_

Customer estimates are not binding upon Sysco and shall not limit liability for goods or services received.

AUTOMATIC PAYMENT IS AVAILABLE: WOULD YOU LIKE MORE INFORMATION?  YES  NO

FILL US IN ON WHO YOUR BANKER IS:

BANK NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ CITY, STATE, ZIP \_\_\_\_\_

LOAN OFFICER/CONTACT PERSON \_\_\_\_\_ PHONE NO. \_\_\_\_\_

CHECKING (ACCOUNT NO.) BALANCE \_\_\_\_\_ LOANS (ACCOUNT NO.) BALANCE \_\_\_\_\_

GIVE US A FEW REFERENCES, FOOD DISTRIBUTORS PREFERRED:

BUSINESS NAME \_\_\_\_\_ BUSINESS NAME \_\_\_\_\_ BUSINESS NAME \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_ STREET ADDRESS \_\_\_\_\_ STREET ADDRESS \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_ CITY, STATE, ZIP \_\_\_\_\_ CITY, STATE, ZIP \_\_\_\_\_

PHONE NO. \_\_\_\_\_ PHONE NO. \_\_\_\_\_ PHONE NO. \_\_\_\_\_

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

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by: \_\_\_\_\_

Authorized Officer's Printed Name

Authorized Officer's Title

Authorized Officer's Signature \_\_\_\_\_

(This credit application is to be signed by customer's authorized party and not by any sales representative)

# TERMS, CONDITIONS & SECURITY AGREEMENT

1. **Purpose and parties.** This document is your credit application with Sysco, and if your application is approved, your credit agreement with Sysco (as the same may be renewed, extended, amended or restated from time to time, the "Credit Agreement"). "Sysco" means, separately and collectively, Sysco Corporation, The SYGMA Network Inc., FreshPoint, Inc., and their respective operating subsidiaries and affiliates. You may obtain a complete list of these companies from Sysco's credit department. The term Sysco in context therefore means one or more Sysco companies that provide goods, services, credit, or financial accommodations, to Customer from time to time. "Customer" means applicant. This application is not binding upon Sysco unless approved by Sysco in writing. Even if approved, Sysco in its sole discretion may terminate Customer's credit privileges under this Credit Agreement at any time without prior notice to Customer, except as otherwise provided by law.
2. **Scope of agreement.** This Credit Agreement applies to all of Customer's purchases of goods and services from Sysco. This agreement consists of these terms and conditions and any distribution agreements, invoices or other Sysco documents approved by Sysco in writing to evidence Customer's obligations to Sysco (the "Obligations"), all of which are incorporated in this agreement by reference. Except as to quantity of goods ordered, Customer agrees that Sysco is not subject to any terms and conditions set forth in any purchase order, confirmation or other communication from Customer that would supplement or vary this agreement.
3. **Payment and performance.** Payment is due at the physical location of the Sysco company that provided this credit application, or at such other address as Sysco may designate in writing from time to time. If Customer does not pay or perform on time, all amounts owed, less any unearned charges, become immediately due and payable in full. Subject to any legal limits, Customer agrees to pay: (a) interest of the lesser of (i) 1.5% per month and (ii) the highest non-usurious rate permitted by applicable law on past due amounts from date due until paid; which rate shall apply to post judgment interest also; (b) all costs of collection (e.g., attorneys' fees and expenses); and (c) a \$25 fee for each returned item (whether check or ACH) that is dishonored for any reason, or such greater amount allowed by law. In each instance, all charges and fees, and Sysco's rights and remedies, are subject to and automatically constrained by applicable law.
4. **Governing law; forum for disputes.** The parties choose the laws of the state of Pennsylvania to govern all aspects of this credit application and agreement and all transactions and disputes by and between the parties, without regard to any conflicts of law provisions of Pennsylvania. The parties agree to designate the federal and state courts of Pennsylvania as the exclusive place of venue and jurisdiction for any dispute between them; and Customer waives any right Customer may have to transfer or change venue regarding Customer's obligations to Sysco under this credit application.
5. **Special orders.** If Customer ceases doing business with Sysco for any reason, Customer must immediately purchase from Sysco any remaining proprietary or special order items in Sysco's inventory obtained or held for Customer.
6. **Prompt notice of any nonconforming items.** Customer agrees that Sysco is not responsible for any product nonconformity as to quantity, quality or price, unless noted on the original delivery receipt at the time of delivery, or unless Sysco is specifically notified in writing the nonconformity within three (3) days of delivery by certified mail return receipt requested.
7. **Credit approvals; no assignments.** Sysco may establish a credit limit for Customer's account. Customer agrees that Sysco in its sole discretion may increase, decrease or terminate credit at any time. Customer may not assign any rights or benefits under this Credit Agreement without Sysco's prior written consent, which consent may be withheld in Sysco's sole discretion. If Customer is a corporation or other entity, a transfer or assignment of a majority of the equity interest in Customer is considered an assignment within the meaning of this provision.
8. **Payment Terms.** Sysco in its sole discretion may establish or determine payment terms with Customer or any related customer. Sysco reserves the right to modify payment terms for Customer or any related customer if, in Sysco's sole discretion, Sysco becomes aware of circumstances that may materially and adversely impact such entity's ability to meet its financial obligations when due. These rights to modify payment terms are not deemed to be a modification of the Terms and Conditions of this Credit Agreement for credit and are in addition to the rights described in any of Sysco's credit, return and collection policies that may have been provided to Customer.
9. **Credit reports and credit information.** Sysco is relying upon the information provided by Customer as inducement to extend credit to Customer. Customer understands this and certifies to Sysco that all information Customer has provided, or provides in the future, is true, complete, and not misleading, in each and every respect. Customer authorizes Sysco to investigate Customer's credit and business affairs. Upon Customer's request, Sysco will inform Customer if a consumer report was requested and the name and address of any reporting agency that furnished any such consumer report. Customer agrees to notify Sysco in writing by certified mail return receipt requested of any material changes in Customer's financial condition or business affairs, including, without limitation, any changes in financial information or condition, ownership, addresses, business locations, telephone, contact information, and other matters.
10. **Credit Agreement.** In the event this application is approved, as collateral security for the prompt and complete payment and performance of all of Customer's present or future indebtedness, obligations and liabilities to Sysco (the "Obligations"), Customer hereby grants to Sysco a continuing security interest in, and mortgage to, to the following (the "Collateral"): all (i) goods, including, without limitation, all goods now or hereafter delivered on credit to Customer pursuant to this Credit Agreement, and more fully described on invoices issued to Customer by Sysco, (ii) inventory, (iii) equipment; (iv) instruments, (v) chattel paper, (vi) documents, (vii) accounts, (viii) accounts receivable, (ix) general intangibles, (x) deposit accounts, (xi) investment property, (xii) payment intangibles in which Customer now has or hereafter acquires any right or interest, and the proceeds, insurance proceeds and products thereof, together with all books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records related thereto, (xiii) intellectual property and (xiv) rebates.
11. **Financing Statements.** Customer hereby irrevocably authorizes Sysco at any time, and from time to time, to file in any filing office in any Uniform Commercial Code ("UCC") jurisdiction any initial financing statements describing the Collateral as all assets of Customer or language of similar effect and any continuation statements or amendments thereto. Customer also ratifies its authorization for Sysco to have filed in any UCC jurisdiction, any like initial financing statements, or continuation statements, or amendments, if filed before the date of this Credit Agreement.
12. **Events of default.** Each of the following constitutes an "Event of Default": (a) not paying or performing all or any part of the Obligations when due; (b) any representation or warranty made or deemed made by Customer, or any guarantor of the Obligations (each a "Guarantor" and together with Customer, the "Obligated Parties"), in this Credit Agreement or in any related document shall be false, misleading, or erroneous in any material respect when made or deemed to have been made; (c) any Obligated Party shall suspend or discontinue its business operations, or shall generally fail to pay its debts as they mature, or shall file a petition commencing a voluntary case concerning any Obligated Party under any chapter of the United States Bankruptcy Code; or any involuntary case shall be commenced against any Obligated Party under the United States Bankruptcy Code; or any Obligated Party shall become insolvent (howsoever such insolvency may be evidenced); (d) Any Obligated Party, shall fail to pay when due any principal of or interest on any debt (other than the Obligations), or the maturity of any such debt shall have been accelerated, or any event shall have occurred that permits any holder of such debt to accelerate the maturity thereof; (e) this Credit Agreement or any related documents shall cease to be in full force and effect or enforceability thereof shall be contested by any Obligated Party or any Obligated Party shall deny that it has any further liability under this Credit Agreement or any related documents, or any lien created by this Credit Agreement shall for any reason cease to be a valid, first priority perfected lien upon any of the collateral purported to be covered thereby; or (f) the death or incapacity of any Guarantor. Upon an Event of Default, Sysco may without notice terminate Customer's credit privileges under this Credit Agreement or declare the Obligations or any part thereof to be immediately due and payable, or both, and the same shall thereupon become immediately due and payable, without notice, demand, presentment, notice of dishonor, notice of acceleration, notice of intent to accelerate, notice of intent to demand, protest, or other formalities of any kind, all of which are hereby expressly waived by Customer; provided, however, that upon the occurrence of an Event of Default under clause (c) above, the Customer's credit privileges shall automatically terminate, and the Obligations shall become immediately due and payable, in each case without notice, demand, presentment, notice of dishonor, notice of acceleration, notice of intent to accelerate, notice of intent to demand, protest, or other formalities of any kind, all of which are hereby expressly waived by Customer. In addition to the foregoing, if any Event of Default shall occur and be continuing, Sysco may exercise all rights and remedies available to it in law or in equity, including, all the remedies of a secured party under the UCC, under this Credit Agreement, or otherwise. Reasonable notification of the time and place of any public sale of the Collateral, or reasonable notification of the time after which any private sale or other intended disposition of the Collateral is to be made, shall be sent to Customer at the address provided in this application and to any other person entitled to notice under the UCC; provided that, if any of the Collateral threatens to decline speedily in value or is of the type customarily sold on a recognized market, Sysco may sell or otherwise dispose of the Collateral without notification, advertisement, or other notice of any kind. It is agreed that notice sent or given not less than five (5) business days prior to the taking of the action to which the notice relates is reasonable notification.
13. **Severability.** Each and every provision of the Agreement is severable from any and all other provisions of this Agreement. In the event that any provision of this Agreement is held to be invalid, the other provisions shall continue in full force and effect, and the offending provision, to the extent practicable, shall be reformed so as to achieve its intended purpose.
14. **Other provisions.** This Agreement is binding upon Sysco and Customer and their respective heirs, successors, assigns, representatives and survivors and shall inure to the benefit of Sysco, its successors and assigns. I (We) certify that this request is for the extension of credit for business purposes only and is not intended for the extension of credit for personal, family or household purposes. Any modification to this agreement must be in writing and signed by Sysco's credit manager.
15. **Notice to Sysco.** Any notices that Customer provides to Sysco regarding this Credit Agreement must be in writing and directed to the attention of Sysco's credit department manager at the company and address specified below:  

Sysco Philadelphia, LLC  
 600 Packer Avenue  
 Philadelphia, PA 19148

**Notice for non-trade customers only.** This notice is for applicants who have not requested trade credit from Sysco. If this application is not fully approved or if any other adverse action is taken, the applicant has the right to request a statement of specific reasons for such action within 60 days of Sysco's notification of such adverse action. Sysco must then provide the statement within 30 days of applicant's request. An applicant's request for a statement of specific reasons should be directed to: Sysco Credit Department, 600 Packer Avenue, Philadelphia, PA 19148. The Federal Equal Credit Opportunity Act prohibits creditors from discrimination against credit applicants on the basis of race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance programs; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning the creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

ACCEPTANCE OF THIS APPLICATION DOES NOT INDICATE AN OFFER OF TERMS.

THE PERSON EXECUTING THIS AGREEMENT HAS AUTHORITY TO BIND THE CUSTOMER AND IS AUTHORIZED BY THE CUSTOMER TO ENTER INTO THE CREDIT APPLICATION TERMS AND CONDITIONS.

LEGAL NAME OF COMPANY (CORPORATE, PARTNERSHIP OR PROPRIETORSHIP NAME):	DBA NAME (SHIP TO NAME)
BY AUTHORIZED AGENT: (PRINTED NAME & TITLE)	SIGNATURE
	DATE

## AUTHORIZATION FOR CREDIT REPORT

The undersigned is executing this Authorization for Credit Report individually for the purpose of authorizing Sysco to obtain a consumer credit report from time to time on the undersigned individual(s) through credit and consumer reporting agencies or other sources, in order to further evaluate the creditworthiness of such individual in connection with the credit evaluation process and the proposed extension of business credit to the Applicant. The undersigned, as an individual, hereby knowingly consents to the use of such credit report in accordance with the federal fair credit reporting act as contained in 15 U.S.C.1681, ET SEQ., as amended from time to time.

PRINT NAME	SIGNATURE	DATE
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For Sysco's use only  
 Notwithstanding the signature below of a sales representative, evidencing only the optional review of the foregoing, the credit department of Sysco shall in no way be bound thereby to act upon this application or extend credit to the Applicant.

SALES REPRESENTATIVE NAME	SIGNATURE	DATE
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# INDIVIDUAL PERSONAL GUARANTY

- Purpose and parties.** In this guaranty, Sysco has the same meaning set forth in Sysco's Terms and Conditions above (as the same may be renewed, extended, amended or restated from time to time, the "Credit Agreement"). In this Guaranty "Customer" means the Individual or Business Entity Applicant set forth immediately above the signature blocks hereto. "Guarantor" means each signing below, who, by executing this guaranty, represents that he has a personal financial interest in Customer and reasonably anticipates receiving a direct or indirect benefit from any credit provided by Sysco to Customer from time to time. To induce Sysco to enter into the Credit Agreement and for value received, Guarantor personally guarantees the prompt and punctual payment and performance when due, whether at stated maturity, by required prepayment, upon acceleration, demand or otherwise, of any and all of Customer's obligations, indebtedness and liabilities of every kind, nature and character, direct or indirect, liquidated or unliquidated, and whether for principal, interest, premiums, fees, indemnities, damages, costs, expenses or otherwise to Sysco at any time created or arising, whether matured or contingent, including, without limitation, all liabilities under the Credit Agreement (including all renewals, extensions, amendments, refinancings and other modifications thereof and all costs, attorneys fees and expenses incurred by Sysco in connection with the collection or enforcement thereof, and including all interest that accrues upon such liabilities and obligations, including interest as set forth in Section 3 of the Credit Agreement and interest that accrues after the commencement by or against Customer of any proceeding under any applicable debtor relief laws) (the "Guaranteed Obligations"). This is an absolute, irrevocable, unconditional and continuing guaranty of payment, not a guaranty of collection, and Sysco may enforce Guarantor's obligations hereunder without first suing, or enforcing its rights and remedies against Customer or any other obligor or collecting any present or future collateral security for the Guaranteed Obligations.
- Notices.** Any notices that Guarantor provides to Sysco must be in writing and directed to the attention of Sysco's credit manager at the address specified in the Credit Agreement.
- Waivers and agreements.** Guarantor waives (a) except as expressly required hereby, promptness, diligence, notice of any default under the Guaranteed Obligations, notice of acceleration or intent to accelerate, demand for payment, notice of acceptance of this guaranty, presentment, notice of protest, notice of dishonor, notice of sales to Customer or the incurring by Customer of additional indebtedness, notice of any suit or other action by Sysco against Customer or any other person, any notice to any party liable for the obligation which is the subject of the suit or action, and all other notices and demands with respect to the Guaranteed Obligations and this guaranty; (b) any right to revoke this guaranty with respect to future indebtedness; (c) any right to require Sysco to do any of the following before Guarantor is obligated to pay the Guaranteed Obligations or before any Beneficiary may proceed against Guarantor: (i) sue or exhaust remedies against Customer and other guarantors or obligors, (ii) sue on an accrued right of action in respect of any of the Guaranteed Obligations or bring any other action, exercise any other right, or exhaust all other remedies, or (iii) enforce rights against Customer's assets or any collateral pledged by Customer to secure the Guaranteed Obligations; (d) any right relating to the timing, manner, or conduct of Sysco's enforcement of rights against Customer's assets or the collateral pledged by Customer to secure the Guaranteed Obligations; (e) if Guarantor and Customer (or a third-party) have each pledged assets to secure the Guaranteed Obligations, any right to require Sysco to proceed first against the other collateral before proceeding against collateral pledged by Guarantor; (f) (i) any principles or provisions of law, statutory, or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting Guarantor's liability hereunder or the enforcement hereof, and (iii) any requirement that Sysco protect, secure, perfect or insure any security interest or lien or any property subject thereto; (g) if applicable, each of the foregoing rights or defenses regardless whether they arise under (i) Section 43.001-005 of the Tex. Civ. Prac. & Rem. Code, as amended (ii) Section 17.001 of the Texas Civil Practice and Remedies Code, as amended, (iii) Rule 31 of the Texas Rules of Civil Procedure, as amended, or (iv) common law, in equity, under contract, by statute, or otherwise; and (h) if applicable, any and all rights under Sections 51.003, 51.004 and 51.005 of the Texas Property Code, as amended.
- Obligations Not to be Diminished.** Guarantor further agrees that its obligations under this guaranty shall not be released, discharged, diminished, impaired, reduced, or affected for any reason or by the occurrence of any event, including, without limitation, one or more of the following events, whether or not with notice to or the consent of Guarantor: (a) the taking or accepting of collateral as security for any or all of the Guaranteed Obligations or the release, surrender, exchange, or subordination of any collateral now or hereafter securing any or all of the Guaranteed Obligations; (b) any partial release of the liability of Customer, Guarantor or any other obligor, or the full or partial release of Customer or any other guarantor or obligor from liability for any or all of the Guaranteed Obligations; (c) any disability of Customer, or the dissolution, insolvency, or bankruptcy of Customer,

or any other guarantor, or any other party at any time liable for the payment of any or all of the Guaranteed Obligations; (d) any renewal, extension, modification, waiver, amendment, or rearrangement of any or all of the Guaranteed Obligations or any instrument, document, or agreement evidencing, securing, or otherwise relating to any or all of the Guaranteed Obligations; (e) any adjustment, indulgence, forbearance, waiver, or compromise that may be granted or given by Sysco to Customer, Guarantor, or any other party ever liable for any or all of the Guaranteed Obligations; (f) any neglect, delay, omission, failure, or refusal of Sysco to take or prosecute any action for the collection of any of the Guaranteed Obligations or to foreclose or take or prosecute any action in connection with any instrument, document, or agreement evidencing, securing, or otherwise relating to any or all of the Guaranteed Obligations; (g) the unenforceability or invalidity of any or all of the Guaranteed Obligations or of any instrument, document, or agreement evidencing, securing, or otherwise relating to any or all of the Guaranteed Obligations; (h) any payment by Customer or any other party to Sysco is held to constitute a preference under applicable bankruptcy or insolvency law or if for any other reason Sysco is required to refund any payment or pay the amount thereof to someone else; (i) the settlement or compromise of any of the Guaranteed Obligations; (j) the non-perfection of any security interest or lien securing any or all of the Guaranteed Obligations; (k) any impairment of any collateral securing any or all of the Guaranteed Obligations; (l) the failure of Sysco to sell any collateral securing any or all of the Guaranteed Obligations in a commercially reasonable manner or as otherwise required by law; (m) any change in the corporate existence, structure, or ownership of Customer; or (n) any other circumstance which might otherwise constitute a defense available to, or discharge of, Customer or Guarantor.

- Subrogation.** Until the Guaranteed Obligations have been paid, in full, Guarantor hereby covenants and agrees that it shall not assert, enforce, or otherwise exercise (a) any right of subrogation to any of the rights, remedies or liens of Sysco or any other beneficiary against Customer or its affiliates or any other guarantor of the Guaranteed Obligations or any collateral or other security, or (b) unless such rights are expressly made subordinate to the Guaranteed Obligations (in form and upon terms acceptable to Sysco) and the rights or remedies of Sysco under this guaranty and the Credit Agreement, any right of recourse, reimbursement, contribution, indemnification, or similar right against Customer or its affiliates or any other guarantor of all or any part of the Guaranteed Obligations.
- Termination.** This guaranty is a continuing and irrevocable guaranty of all Guaranteed Obligations. No termination of this guaranty shall be affected by the death of Guarantor. This guaranty shall be effective regardless of any subsequent incorporation, reorganization, merger or consolidation of the Customer, change of partners, change of name or any other change in the composition, nature, personnel or location of Customer whatsoever.
- Consent to Sysco's Acts.** Guarantor agrees that Sysco may, at any time and from time to time, and without notice to Guarantor, make any agreement with Customer or with any other person or entity liable on any of the Guaranteed Obligations, for the extension, renewal, payment, compromise, discharge or release of the Guaranteed Obligations (in whole or in part), or for any modification or amendment of the terms thereof or of any instrument or agreement evidencing the Guaranteed Obligations, all without in any way impairing, releasing, discharging or otherwise affecting the obligations of Guarantor under this guaranty. Further, Guarantor consents to the taking of, or failure to take, any action that might in any manner or to any extent vary the risks of Guarantor under this guaranty or which, but for this provision, might operate as a discharge of Guarantor.
- Insolvency of Customer.** This guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any portion of the Guaranteed Obligations is revoked, terminated, rescinded or reduced or must otherwise be restored or returned upon the insolvency, bankruptcy or reorganization of Customer or any other person or entity or otherwise, as if such payment had not been made and whether or not Sysco is in possession of or has released this guaranty and regardless of any prior revocation, rescission, termination or reduction.
- Financial Condition of Guarantor.** The liability of Guarantor hereunder shall, at the option of Sysco, without notice, become immediately fixed and enforceable for the full amount thereof, whether then due or not due, as though all of the Guaranteed Obligations had become past due in the event that Guarantor shall make an assignment for the benefit of his/her creditors or a composition with creditors, shall be unable or admit in writing his/her inability to pay, or shall generally fail to pay, his/her debts as they mature, shall file a petition commencing a voluntary case concerning Guarantor under any chapter of Title 11 of the United States Code entitled "Bankruptcy"; or an involuntary case shall be commenced against Guarantor under any such chapter and relief is ordered against him or the petition is controverted but is not dismissed within sixty (60) days after the commencement of such case. In the event that Guarantor should breach or fail to timely perform any provisions of this guaranty, Guarantor shall, immediately upon demand by Sysco, pay Sysco all costs and expenses (including court costs and

reasonable attorneys' fees) incurred by Sysco in the enforcement hereof or the preservation of Sysco's rights hereunder. The covenant contained in this Paragraph 9 shall survive the payment of the Guaranteed Obligations.

- Credit information.** Guarantor authorizes Sysco to investigate Guarantor's credit and business affairs. Guarantor agrees that Sysco may request consumer reports and other available credit reports about Guarantor in connection with this application, when Sysco is reviewing, updating or collecting credit from the Customer or Guarantor in the future, and as otherwise permitted by applicable law. Upon Guarantor's request, Sysco will inform Guarantor if a consumer report was requested and the name and address of any reporting agency that furnished any such consumer report.
- Payment and performance.** Payment is due at the physical location of Sysco specified in the Credit Agreement or at such other address as Sysco may designate in writing from time to time. In each instance, Sysco's rights and remedies under this guaranty, and amounts collected hereunder, are subject to and automatically constrained by applicable law.
- No Waiver.** No failure by Sysco to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy or power hereunder preclude any other or further exercise thereof or the exercise of any other right. The unenforceability or invalidity of any provision of this guaranty shall not affect the enforceability or validity of any other provision herein.
- Condition of Customer.** Guarantor acknowledges and agrees that he/she has the sole responsibility for, and has adequate means of, obtaining from Customer such information concerning the financial condition, business and operations of Customer as Guarantor requires, and that Sysco has no duty, and Guarantor is not relying on Sysco at any time, to disclose to Guarantor any information relating to the business, operations or financial condition of Customer. Guarantor represents and warrants as follows: (a) Guarantor has the power and authority and legal right to execute, deliver, and perform its obligations under this guaranty and this guaranty constitutes the legal, valid, and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, except as limited by bankruptcy, insolvency, or other laws of general application relating to the enforcement of creditor's rights, (b) Guarantor has received or will receive direct or indirect benefit from the making of this Guaranty and the creation of the Guaranteed Obligations, (c) the value of the consideration received and to be received by Guarantor hereunder is reasonably worth at least as much as the liability and obligation of Guarantor hereunder, (d) that Sysco has made no representations to Guarantor in order to induce Guarantor to execute this guaranty, (e) the execution, delivery, and performance by Guarantor of this guaranty do not and will not violate or conflict with any law, rule, or regulation or any order, writ, injunction, or decree of any court, governmental authority or agency, or arbitrator and do not and will not conflict with, result in a breach of, or constitute a default under, or result in the imposition of any lien upon any assets of Guarantor pursuant to the provisions of any indenture, mortgage, deed of trust, security agreement, franchise, permit, license, or other instrument or agreement to which Guarantor or its properties are bound, and (f) no authorization, approval, or consent of, and no filing or registration with, any court, governmental authority, or third party is necessary for the execution, delivery, or performance by Guarantor of this guaranty or the validity or enforceability thereof.
- Governing law; forum for disputes.** The parties choose the law of the state specified in the Credit Agreement to govern all aspects of this guaranty and all transactions between them, without regard to the conflicts of law provisions of that state. They designate the federal and state courts of that state as the exclusive place of venue and jurisdiction for any dispute between them; and Guarantor waives any right they may have to transfer or change venue regarding Guarantor's obligations to Sysco.
- Other provisions.** This guaranty is binding upon Guarantor and Guarantor's heirs, successors, assigns, representatives and survivors, and inures to the benefit of Sysco. This guaranty may be assigned by Sysco without notice to Guarantor. If this guaranty is executed by more than one person, each person's obligations as a Guarantor hereunder shall be joint and several and all references to the singular are considered to include the plural.
- Amendments.** No provision of this guaranty may be waived, amended, supplemented or modified, except by a written instrument executed by Sysco and Guarantor making specific reference to the change to be made, and any attempted waiver, amendment, supplement or modification hereof, except by such a written instrument, shall be deemed null and void and of no effect.
- WAIVER OF JURY TRIAL; FINAL AGREEMENT.** TO THE EXTENT ALLOWED BY APPLICABLE LAW, GUARANTOR AND SYSCO EACH WAIVE TRIAL BY JURY WITH RESPECT TO ANY ACTION, CLAIM, SUIT OR PROCEEDING ON OR ARISING OUT OF THIS GUARANTY. THIS GUARANTY REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES.

LEGAL NAME OF COMPANY (CORPORATE, PARTNERSHIP OR PROPRIETORSHIP NAME):

DBA NAME (SHIP TO NAME)

PRINT NAME OF GUARANTOR

SIGNATURE

DATE

PRINT NAME OF GUARANTOR

SIGNATURE

DATE

PRINT NAME OF SYSCO SALESPERSON WITNESSING THIS DOCUMENT

SIGNATURE

DATE

USE OF A CORPORATE TITLE SHALL IN NO WAY LIMIT THE PERSONAL LIABILITY OF THE PERSONAL GUARANTEE SIGNATORY

## UNIFORM SALES & USE TAX CERTIFICATE—MULTIJURISDICTION

The below-listed states have indicated that this form of certificate is acceptable, subject to the notes on pages 2-4. The issuer and the recipient have the responsibility of determining the proper use of this certificate under applicable laws in each state, as these may change from time to time.

Issued to Seller: \_\_\_\_\_

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

I certify that:

Name of Firm (Buyer): \_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

is engaged as a registered

- Wholesaler
- Retailer
- Manufacturer
- Seller (California)
- Lessor (see notes on pages 2-4)
- Other (Specify) \_\_\_\_\_

and is registered with the below listed states and cities within which your firm would deliver purchases to us and that any such purchases are for wholesale, resale, ingredients or components of a new product or service<sup>1</sup> to be resold, leased, or rented in the normal course of business. We are in the business of wholesaling, retailing, manufacturing, leasing (renting) the following:

Description of Business: \_\_\_\_\_

General description of tangible property or taxable services to be purchased from the seller: \_\_\_\_\_

State	State Registration, Seller's Permit, or ID Number of Purchaser	State	State Registration, Seller's Permit, or ID Number of Purchaser
AL <sup>1</sup>	_____	MO <sup>16</sup>	_____
AR	_____	NE <sup>17</sup>	_____
AZ <sup>2</sup>	_____	NV	_____
CA <sup>3</sup>	_____	NJ	_____
CO <sup>4</sup>	_____	NM <sup>4,18</sup>	_____
CT <sup>5</sup>	_____	NC <sup>19</sup>	_____
DC <sup>6</sup>	_____	ND	_____
FL <sup>7</sup>	_____	OH <sup>20</sup>	_____
GA <sup>8</sup>	_____	OK <sup>21</sup>	_____
HI <sup>4,9</sup>	_____	PA <sup>22</sup>	_____
ID	_____	RI <sup>23</sup>	_____
IL <sup>4,10</sup>	_____	SC	_____
IA	_____	SD <sup>24</sup>	_____
KS	_____	TN	_____
KY <sup>11</sup>	_____	TX <sup>25</sup>	_____
ME <sup>12</sup>	_____	UT	_____
MD <sup>13</sup>	_____	VT	_____
MI <sup>14</sup>	_____	WA <sup>26</sup>	_____
MN <sup>15</sup>	_____	WI <sup>27</sup>	_____

I further certify that if any property or service so purchased tax free is used or consumed by the firm as to make it subject to a Sales or use Tax we will pay the tax due directly to the proper taxing authority when state law so provides or inform the seller for added tax billing. This certificate shall be a part of each order which we may hereafter give to you, unless otherwise specified, and shall be valid until canceled by us in writing or revoked by the city or state.

Under penalties of perjury, I swear or affirm that the information on this form is true and correct as to every material matter.

Authorized Signature: \_\_\_\_\_  
(Owner, Partner or Corporate Officer)

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

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

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



## ROUTING INFORMATION SHEET

Account Number: \_\_\_\_\_  
 Account Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State, Zip: \_\_\_\_\_  
 Phone #: \_\_\_\_\_

**3 O'CLOCK PM CUT OFF**    Y\_\_\_\_ N\_\_\_\_  
**4 O'CLOCK PM CUT OFF**    Y\_\_\_\_ N\_\_\_\_

### BID INFORMATION

BID #: \_\_\_\_\_

### PRICE VERIFICATION

Y\_\_\_\_ N\_\_\_\_

### DELIVERY INFORMATION

- PALLETIZE: NO \_\_\_\_\_
- SUBS: ALL / SAME / NONE \_\_\_\_\_
- PART FILL: YES \_\_\_\_\_

Marketing Associate ID: \_\_\_\_\_

Marketing Associate Name: \_\_\_\_\_

Anticipated Sales per Drop: \$ \_\_\_\_\_

### PRICE

#### RULE

P1

P2

P3

OTHER: \_\_\_\_\_

MA Call Day:        M     T     W     TH     F     S

Truck Delivery Day:    M     T     W     TH     F     S

Account Open  Account Close

Requested Delivery Windows  to  and  to

### SPECIAL DELIVERY SITUATIONS

- |                                     |                                      |
|-------------------------------------|--------------------------------------|
| <input type="checkbox"/> Dock       | <input type="checkbox"/> Rear Door   |
| <input type="checkbox"/> Steps Up   | <input type="checkbox"/> Utilized    |
| <input type="checkbox"/> Steps Down | <input type="checkbox"/> Ramp        |
| <input type="checkbox"/> Elevator   | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Front Door |                                      |

### LOCATOR MAP

<input type="text"/>	<input type="text"/>
-----	
<input type="text"/>	<input type="text"/>
-----	
<input type="text"/>	<input type="text"/>

Explanation: \_\_\_\_\_

## EXHIBIT I

### SUBLEASE

This Sublease (“Sublease”), is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the “Effective Date”), by and between Zoup Franchising Co. , LLC (“Sublessor”), and \_\_\_\_\_ (“Sublessee”) with an address of \_\_\_\_\_.

WHEREAS, Sublessor, as tenant, previously entered into, or intends to enter into, that certain lease in the form of Exhibit A attached hereto and incorporated herein by reference (the “Lease”), pursuant to which Sublessor leases certain premises (the “Premises”) as described in the Lease from the landlord under such Lease (“Landlord”);

WHEREAS, Sublessor and Sublessee have entered into a certain Zoup Franchising Co., LLC Franchise Agreement dated \_\_\_\_\_ for the operation of a Zoup! franchised restaurant at the Premises (the “Franchise Agreement”);

WHEREAS, Sublessee has selected the Premises for the location to establish and/or operate Sublessee’s Zoup! franchised restaurant;

WHEREAS, Sublessee desires to sublease from Sublessor, and Sublessor desires to sublease to Sublessee, the Premises and Sublessor’s rights in the Premises pursuant to the Lease, upon the terms and conditions contained herein;

NOW, THEREFORE, in consideration of the foregoing premises which are incorporated herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Sublessor and Sublessee, intending to be legally bound, hereby agree as follows:

1. Agreement to Sublease. Sublessor hereby demises and sublets to Sublessee the Premises, together with all rights, privileges and appurtenances related to the Premises, and Sublessee takes from Sublessor, the Premises, for the Term (as defined herein). If this Sublease is executed prior to the mutual execution and delivery of the Lease, then Sublessor’s obligations hereunder will be contingent upon the execution and delivery of a fully-executed Lease within 90 days after the date of this Sublease. If Sublessor has not received a fully-executed Lease within 90 days after the date of this Sublease, then either Sublessor or Sublessee may terminate this Sublease upon 10 days’ prior written notice to the other at any time prior to the execution and delivery of the Lease, which may still occur during the ten (10) day notice period and will then void the notice of termination.

1.1 Assumption. Sublessee assumes, and agrees to abide by, all terms and conditions of the Lease with respect to the Premises, and agrees to faithfully perform all obligations required thereunder to be performed by Sublessor during the Term to the extent the same have not been fully performed by Sublessor as of the date hereof (including without limitation, any initial construction obligations).

1.2 Compliance with Lease. Notwithstanding anything to the contrary contained herein, the terms of this Sublease and Sublessee’s use, occupancy, maintenance, repair and restoration of the Premises are subject and subordinate to the terms, covenants, conditions, agreements and requirements of the Lease. Sublessee must not commit or permit to be committed on the Premises any act or omission that will violate any term or condition of the Lease. Sublessee shall have no right to amend, modify or negotiate any terms of the Lease (or any renewals thereof) without the express written consent of Sublessor. To enforce the

rights of Sublessor hereunder, Sublessor may exercise any and all remedies available to Landlord under the Lease, in addition to any other remedies provided hereunder or available at law or in equity.

1.2.1 Sublessee shall provide Sublessor upon Sublessee's receipt, a copy of any and all written notice of deficiency under the Lease (or anything pertaining to the Lease) whether Sublessor and its affiliates shall have the right, but not the obligation, to cure any deficiency under the Lease. Sublessee shall remain responsible for all such matters.

## 2. Term; Renewal Options.

2.1 Term. This Sublease will become effective on the Effective Date and will continue for the full term of the Lease, as the same may be renewed or extended from time to time pursuant to Section 2.2 hereof, minus one day (the "Term").

2.2 Renewal Options. If the Lease contains renewal options, Sublessee may exercise such options in accordance with this Section 2.2, provided that as of the time of the giving of the Renewal Notice (as defined below) and as of the date of the renewal, no event of default exists or would exist hereunder or under the Lease but for the passage of time or the giving of notice, or both. Notwithstanding anything herein to the contrary, to exercise a renewal option, Sublessee must notify Sublessor in writing in accordance with Section 17 of Sublessee's intent to exercise such option (the "Renewal Notice") not more than 90 days, nor less than 60 days, before the date that Sublessor is required to notify Landlord pursuant to the Lease of its intention to exercise such option. Time is of the essence.

2.3 Failure to Timely Deliver Renewal Notice. If Sublessee does not deliver the Renewal Notice within the time period stated above, Sublessee's right to exercise the renewal option pursuant to this Section 2 will automatically become null and void and of no further force or effect. Sublessee's exercise of a renewal option, as evidenced by delivery of the Renewal Notice within the time period stated above, will be irrevocable in all events. Upon receipt of the Renewal Notice within the time period stated above, Sublessor will undertake to renew the Lease for the applicable renewal term. Sublessee agrees to indemnify, defend and hold harmless Sublessor and the Indemnified Parties (as defined below) with respect to the exercise of the renewal term under the Lease.

## 3. Rent.

3.1 Payment of Rent. The first month's Base Rent, the Security Deposit and the first monthly installment of estimated Operating Expenses (as such terms are hereinafter defined) will be due and payable on the date hereof. Sublessee promises to pay to Sublessor in advance, without demand, deduction or set-off, regular installments of: (a) all base, minimum or fixed rent payable under the Lease ("Base Rent"), (b) any percentage rent or other rent based upon sales in, at, or from the Premises ("Percentage Rent") and (c) any other payments payable under the Lease, including, but not limited to, operating expenses, common area expenses, taxes, insurance, utilities, marketing funds, merchants associations, sprinkler fees and any other costs and expenses, including, without limitation, any annual reconciliation(s) of the same (collectively, "Operating Expenses"), together with all sales, rental and privilege taxes due thereon. The foregoing costs are collectively referred to as "Rent."

3.1.1 From and after the Effective Date, on the date 10 days prior to the date that any Rent is payable to the Landlord, Sublessee must pay to Sublessor an amount equal to the amount due to the Landlord, including, without limitation, all applicable taxes thereon. To the extent that Percentage Rent or Operating Expenses are not consistent with actual Percentage Rent or Operating Expenses, Sublessee will adjust and pay (or receive credit) for the applicable amount based upon the terms of the Lease. Sublessee must also submit to Sublessor, together with each payment of Percentage Rent and Operating Expenses, and each week until the following payment of Percentage Rent and Operating Expenses, a sales report of Lease Gross Sales (as defined below) for the previous week in the form prescribed by Sublessor.

3.1.2 If requested by Sublessor, concurrently with Sublessee's execution hereof or at any time thereafter, Sublessee must sign a pre-authorization enabling Sublessor to draw against Sublessee's bank account for the full amount of the Rent and any other amounts due hereunder as and when the same become due. All Rent and other payments required to be made by Sublessee to Sublessor hereunder may be drawn against Sublessee's bank account by Sublessor, or at Sublessor's election, will be payable at such address as Sublessor may specify from time to time by written notice delivered in accordance herewith. Sublessee shall furnish upon Sublessor's request such bank name and account number, a voided check from such bank account, and written authorization (in the form specified by Sublessor (or its affiliate) for Sublessor (or its affiliate) to deposit and/or withdraw funds from such bank account via electronic funds transfer. Sublessee agrees to execute any and all documents as may be necessary to effectuate and maintain the electronic funds transfer arrangement throughout the Term and thereafter until Sublessee's obligations have been fulfilled as determined by Sublessor. If Sublessee's wishes to change its bank or account, then Sublessee shall provide Sublessor at least thirty (30) days prior to any such change, with all required information concerning the new bank and/or account and an authorization to make deposits thereto and withdrawals therefrom. Sublessee's failure to comply with the terms hereof, Sublessee's withdrawal of authorization for Sublessor (or its affiliate) to access Sublessee's bank account, for whatever reason and by whatever method, shall be a default of this Sublease. Further, at Sublessor's option, Sublessor may, at any time and from time to time, direct Sublessee to make full or partial payments of Rent, directly to Landlord, and Sublessee must immediately comply with such direction.

3.2 Late Charge. Sublessee acknowledges that any late payment by Sublessee to Sublessor of any Rent or other payment due hereunder will cause Sublessor to incur costs not contemplated by this Sublease, the exact amount of such costs being extremely difficult and impractical to determine. Therefore, if Sublessee is delinquent in any installment of Rent, or other sums due and payable hereunder for more than three (3) days, Sublessee must pay to Sublessor on demand a late charge equal to five (5%) percent of such delinquent sum, plus any late charges and interest incurred by Sublessor under the Lease as a result of such late payment. The parties agree that such late charge represents a fair and reasonable estimate of the costs that Sublessor will incur by reason of such late payment by Sublessee. The provision for such late charge will be in addition to all of Sublessor's other rights and remedies hereunder or at law and will not be construed as a penalty. In addition to the foregoing late charge, if Sublessee is delinquent in any installment of Rent or other payments due hereunder for more than 10 days, then such delinquent sum will bear interest at the rate of 18% per annum or the highest rate permitted by law, whichever is less ("Interest"), from the due date until paid in full.

3.3 Administrative Fee. For each calendar month or part thereof during the Term, an administrative fee equal to one-half percent (0.5%) of Sublessee's Gross Sales (as defined in the Franchise Agreement) for the preceding month. Each such monthly payment by Sublessee must be received by Sublessor on or before the fifth (5<sup>th</sup>) day of each calendar month and shall be paid in the manner specified in Section 3.6 hereof, or as otherwise prescribed in writing by Sublessor. All administrative fees which Sublessee owes to Sublessor shall bear interest after the due date at the highest applicable legal rate for open account business credit, not to exceed one and one-half percent (1.5%) per month. Sublessee acknowledges that this paragraph shall not constitute an agreement by Sublessor to accept such payments after same are due or a commitment by Sublessor to extend credit to, or otherwise finance Sublessee's occupation of the premises. Further, Sublessee acknowledges that its failure to pay all amounts when due shall constitute grounds for termination of this Sublease, notwithstanding the provisions of this paragraph.

#### 4. Security Deposit.

4.1 Cash Deposit. Contemporaneously with Sublessee's execution hereof, Sublessee must deposit with Sublessor or Landlord (as determined by Sublessor) a security deposit in the amount of \$\_\_\_\_\_ (the "Security Deposit"). The Security Deposit will be held by Sublessor or Landlord (as determined by Sublessor) as security for the performance of Sublessee's obligations under this Sublease. The Security Deposit is not an advance rental deposit or a measure of Sublessor's damages



in case of Sublessee's default. Upon each occurrence of an Event of Default hereunder (as defined below), Sublessor may use all or part of the Security Deposit to pay delinquent payments due under this Sublease or the Lease, and the cost of any damage, injury, expense or liability caused by such default, without prejudice to any other remedy provided herein or provided by law. Sublessee must pay to Sublessor on demand, or Sublessor may draw on Sublessee's bank account, the amount that will restore the Security Deposit to its original amount. Sublessor's obligation with respect to the Security Deposit is that of a debtor, not a trustee; no interest will accrue thereon. Upon the expiration of the Lease, the Security Deposit, to the extent that Sublessee is in possession of such and to the extent that a balance remains, will be refunded to Sublessee when Sublessee's obligations under this Sublease have been completely fulfilled.

4.2 Security Agreement. Sublessee hereby grants Sublessor a security interest, and this Sublease constitutes a security agreement within the meaning of and pursuant to the Uniform Commercial Code of the state in which the Premises is located, in and to all of Sublessee's property situated in or upon, or used in connection with, the Premises (except merchandise sold in the ordinary course of business) (collectively, the "Collateral") as security for all of Sublessee's obligations hereunder, including, without limitation, the obligation to pay Rent and other monetary amounts hereunder. Such property thus encumbered includes, without limitation, specifically all trade fixtures and any other fixtures removable by Sublessor, as tenant, pursuant to the Lease, inventory, equipment, signage, small wares, furniture, contract rights, accounts receivable and the proceeds thereof. Sublessee hereby irrevocably authorizes Sublessor to file such financing statements and other Uniform Commercial Code filings as Sublessor deems appropriate in order to perfect such security interest. Sublessee further agrees to execute such other financing statements as may from time to time be requested by Sublessor to further secure Sublessor's interest under this Section 4.2 as often as Sublessor in its discretion may require.

5. Utilities. Sublessee must arrange for and pay for, prior to delinquency, the cost of any and all electricity, water, gas, sewer, telephone and other utilities consumed in the Premises commencing on the date Sublessee is permitted to access the Premises and continuing during the Term (collectively, "Utilities"), unless Landlord expressly pays for the same pursuant to the Lease and/or the cost thereof is paid by Sublessee as Operating Expenses. Such payments must be made directly to the utility provider unless the Lease provides otherwise. If Sublessor elects, and is permitted to do so pursuant to the Lease, to arrange for and/or pay the cost of such Utilities directly to the utility provider, then Sublessee must pay to Sublessor any and all amounts due for such Utilities upon demand. Sublessor may draw against Sublessee's bank account from time to time for the full amount of the cost of such Utilities or Sublessee's reasonable estimate of the costs thereof. Any failure to pay the cost of Utilities to Sublessor or any utility provider, as applicable, when due will be deemed a failure to pay Rent hereunder and will entitle Sublessor to exercise its remedies hereunder.

6. Use. Sublessee must use the Premises solely for the operation of a Zoup! franchised restaurant pursuant to the terms of its Zoup! Franchise Agreement for the Premises and in accordance with the terms and conditions of the Lease, this Sublease and all applicable federal, state and local laws, and for no other purpose whatsoever.

7. Sublessor's Obligations. Subject to the terms of this Sublease, Sublessor is conveying to Sublessee only those rights to the Premises that it has acquired by virtue of the Lease. Sublessee acknowledges that the Lease sets forth certain Landlord obligations, which, as between Sublessor and Sublessee, Sublessor is not obligated to perform. Sublessee hereby waives and releases Sublessor from any and all claims Sublessee may now or hereafter have against Sublessor with respect to any and all such obligations and/or the contents of the Lease or any provision thereof (or Sublessor's negotiation or documentation thereof), all of which have been read and approved by Sublessee. If Landlord fails to perform its obligations under the Lease, Sublessee must promptly send Sublessor written notice specifically describing the default in detail. Upon receipt of such notice, Sublessor will promptly notify Landlord of the alleged default. Sublessor will not be obligated to bring or defend any claim or action against Landlord and, if it declines to do so, Sublessee, at Sublessee's sole expense, will have the right to do so, in which event Sublessee must indemnify, defend

and hold harmless the Indemnified Parties (as defined herein) against the same. It is understood and acknowledged that Sublessor is under no obligation to bring or defend any action brought by or against Sublessor or its affiliates, Sublessee or Landlord.

8. Maintenance and Alterations. Without limiting the generality of Section 1.1, Sublessee must maintain the Premises in good condition and repair and must perform all of “Tenant’s” maintenance, repair and replacement obligations under the Lease. Sublessee acknowledges that Sublessor will have no repair or maintenance obligations with respect to the Premises or the shopping center/buildings/development/project (the “Center”) in which the Premises is situated. Sublessee, whether or not permitted by the Lease, must not perform any construction or make any alterations, additions or changes to the Premises without Sublessor’s prior written consent and, if required by the Lease, Landlord’s written approval. Upon the expiration of the Term or the sooner termination of this Sublease, Sublessee must surrender the Premises in good condition and repair, in as good a condition or better than required at the time of Sublessor’s surrender under the Lease.

9. Assignment and Subletting. Without the prior written consent of Sublessor, which consent may be withheld in Sublessor’s sole and absolute discretion, (a) Sublessee may not assign, transfer, convey, pledge or mortgage this Sublease or any interest therein, whether by operation of law or otherwise, (b) no interest in Sublessee may be assigned, transferred, conveyed, pledged or mortgaged, whether by operation of law or otherwise, including without limitation, a merger or consolidation of Sublessee with another entity or the dissolution of Sublessee, and (c) Sublessee may not sublet all or any part of the Premises. No assignment of this Sublease or subletting of the Premises consented to will relieve Sublessee of its obligations under this Sublease. Any assignment, transfer, conveyance, pledge, mortgage or subletting in violation of this Section 9 will be voidable at the sole option of Sublessor. Sublessee acknowledges that any assignment or subletting to which Sublessor may consent will be conditioned upon Landlord’s consent thereto, if Landlord’s consent is required under the Lease. Any assignment of this Lease or sublease of the Premises by Sublessee will be subject to the provisions of Section 6 above and the other provisions of this Sublease.

10. Risk of Loss. (a) Sublessee assumes all risk of loss of or damage to Sublessee’s property located within the Premises or the Center, including, without limitation, any loss or damage caused by water leakage, fire, windstorm, explosion, theft, vandalism, earthquake, act of God or act of any other tenant or third party and (b) Sublessee waives any claim, demand and/or action against Sublessor for injury, death or property damage occurring in or around the Premises or Center.

11. Indemnification. To the fullest extent permitted by law, Sublessee hereby agrees to indemnify, defend (with counsel acceptable to Sublessor or if Sublessor reasonably determines that it will require counsel of its choice, the Sublessee shall also be responsible for Sublessor’s attorneys’ fees and costs) and holds harmless Sublessor, and each of its officers, directors, affiliates, contractors, agents, attorneys and employees (collectively, the “Indemnified Parties”), for, from and against all claims, demands, damages, losses, causes of action and actions of any kind or nature whatsoever, and all related costs and expenses (including, without limitation, reasonable attorneys’ fees) (a) for injury, death, disability or illness of any person or damage to property occurring in or around the Premises or the Center or arising out of Sublessee’s use of the Premises or the Center, (b) in connection with or arising from the terms conditions, requirements and provisions of the Lease and this Sublease and (c) in connection with or arising from any mechanics’ or materialmen’s lien or claim filed against the Premises for work performed or materials furnished by or on behalf of Sublessee. It is expressly agreed that Sublessee’s obligations under this Section 11 will survive the expiration or earlier termination of this Sublease for any reason.

12. Insurance. Sublessee must obtain such commercial general liability, property and other insurance coverages as Sublessor may reasonably request with respect to the Premises and/or the operation of Sublessee’s business in the Premises, but in no event less than the insurance coverage required to be carried by “Tenant” pursuant to the Lease (including, without limitation, loss of rent insurance, etc.). The insurance must be with companies reasonably acceptable to Sublessor, written on an occurrence basis, provide primary coverage and name Sublessor and Landlord as additional insureds or loss payees as their interests

may appear, as applicable and as otherwise required of the “Tenant” under the Lease. The liability policy must contain a contractual liability endorsement. Such policies must provide that they may not be cancelled or materially changed in the scope or amount of coverage unless 30 days’ (or more if required by the Lease) advance written notice is given to Sublessor and Landlord. Sublessee must deliver certificates evidencing the insurance required by this Section 12 upon the execution of this Sublease, annually thereafter and at such times as Sublessor may otherwise request.

13. Right to Inspect. Sublessor and its agents, employees or representatives (or that of its affiliates) will have the right to inspect the Premises at any time to determine Sublessee’s compliance with the terms of this Sublease, the Lease and Sublessee’s Franchise Agreement.

14. Acceptance of Premises; Sublessee’s Representations. Upon the date that Landlord delivers possession of the Premises to Sublessor and Sublessor delivers possession of the Premises to Sublessee (which may occur simultaneously), Sublessee agrees to accept the Premises in an “AS IS” condition, without representation or warranty of Sublessor. Sublessee represents and confirms to Sublessor that Sublessee has selected the Premises for the location of the Zoup! franchised restaurant to be established and operated by Sublessee and that: (a) no representative, agent, attorney or employee of Sublessor (or its affiliates) made any representations, inducements or promises about the Premises, the Lease or the entry into this Sublease; (b) no representative, agent, attorney or employee of Sublessor (or its affiliates) made any representations, inducements or promises about the characteristics or conditions regarding or pertaining to the Premises or the Center in which the Premises is situated; (c) Sublessee has independently investigated the potential for the success of its operations in the Premises and has not relied upon any representations, inducements or promises by Sublessor’s representatives, agents, attorney or employees; (d) Sublessee has concluded on its own that the Premises has a reasonable opportunity for success as a Zoup! franchised restaurant; (e) Sublessee has inspected the Premises and finds the same in acceptable condition; (f) Sublessor (or its affiliates) has made no representation or warranty as to the suitability of the Premises for the conduct of Sublessor’s business; (g) Sublessee waives any implied warranty that the Premises are suitable for Sublessee’s intended purposes; (h) Sublessee accepts full responsibility for the consequences of Sublessee’s decision to operate a Zoup! franchised restaurant at the Premises in accordance with the terms of this Sublease, the Lease and the Franchise Agreement; and (i) Sublessee has thoroughly reviewed the Lease and this Sublease and has been advised by its legal counsel regarding the Lease and this Sublease, or Sublessee has made a reasoned and fully informed decision not to be so represented by counsel and understands and acknowledges the significance and consequences of such decision, and Sublessee is fully knowledgeable about and is fully satisfied with the terms and provisions, and assumes all of its obligations as tenant under the Lease and this Sublease. Sublessee acknowledges that the foregoing representations by Sublessee are a material inducement to Sublessor’s execution of this Sublease.

15. Default.

15.1 An “Event of Default” will occur if at any time during the Term, (a) Sublessee defaults in the payment of Rent or any other payment due hereunder and the same is not cured within three days after written notice thereof; provided, however, Sublessor will be obligated to give only two (2) such notices in any calendar year, with subsequent payment default to be an Event of Default if such failure to pay continues for a period of three (3) days or more from the date such payment is due (without any notice), (b) Sublessee defaults in any other obligation under this Sublease, including, without limitation, causing or permitting the occurrence of any event that, but for the passage of time or the giving of notice, or both, would constitute a default under the Lease, and the same is not cured within ten (10) days after written notice thereof or such shorter cure period as may be set forth in the Lease, (c) Sublessee defaults in any obligation under the Franchise Agreement or any other agreement between Sublessor (or its affiliates) and Sublessee (or its affiliates), and the same is not cured as provided for in the Franchise Agreement, if any cure period is provided for, (d) any proceeding is begun by or against Sublessee to subject the assets of Sublessee to any bankruptcy or insolvency law or for an appointment of a receiver of Sublessee or for any of Sublessee’s assets or (e) Sublessee makes a general assignment of Sublessee’s assets for the benefit of

its creditors. Sublessee acknowledges that a default under this Sublease by Sublessee shall be deemed an event of default under the Franchise Agreement and, similarly, a default under the Franchise Agreement shall constitute a default by Sublessee under this Sublease.

15.2 Upon an Event of Default, Sublessor may at any time thereafter at its election, (a) terminate this Sublease, (b) terminate Sublessee's right of possession in the Premises, (c) cure any such default and receive from Sublessee, as additional rent, all costs incurred in doing so, plus interest at the lesser of 15% per annum or the highest rate permitted by law; (d) exercise any remedy available to Landlord under the Lease and/or (e) pursue any other remedies available at law or in equity. All Sublessor remedies provided herein will be cumulative and non-exclusive. Upon the termination of this Sublease or termination of Sublessee's right of possession, it will be lawful for Sublessor, without formal demand or notice of any kind, to re-enter the Premises, by summary dispossession proceedings or otherwise, and to remove Sublessee and all persons and property therefrom. If Sublessor re-enters the Premises following an Event of Default, Sublessor will have the right to keep in place and use, or remove and store, all of the furniture, fixtures, equipment, signage, inventory and other items covered by Sublessor's lien pursuant to Section 4.2 hereof. No action taken by Sublessor pursuant to this Section 15 will relieve Sublessee of its obligations under this Sublease or will be deemed an act terminating this Sublease or declaring the Term hereof ended unless notice is served upon Sublessee by Sublessor expressly setting forth therein that Sublessor elects to terminate this Sublease or declare the Term ended.

15.2.1 In the event of an expiration or termination of this Sublease, Sublessor may, at its sole option, purchase all trade fixtures, furniture, equipment and apparatus (as distinguished from leasehold improvements) owned by Sublessee and installed in the Premises ("Sublessee's Property") at its appraised value as of the date of expiration or termination. Sublessor may set off the appraised value of Sublessee's Property against sums due Sublessor hereunder or due to any of its affiliates under the Franchise Agreement, or require Sublessee to remove such Sublessee Property.

15.3 If, following an Event of Default, Sublessor terminates this Sublease, Sublessor may recover from Sublessee the sum of (a) all Rent and all other amounts accrued hereunder to the date of such termination, including any accelerated rent payments required by the landlord as a result of termination of the Lease; (b) the cost of reletting the whole or any part of the Premises, including, without limitation, brokerage fees and/or leasing commissions incurred by Sublessor and costs of removing and storing Sublessee's or any other occupant's property, and repairing, altering, remodeling or otherwise putting the Premises into condition acceptable to a new tenant or tenants and the Landlord; (c) all reasonable expenses incurred by Sublessor in pursuing its remedies, including, without limitation, reasonable attorneys' fees and court costs and (d) an amount in cash equal to the then present value of the Rent and other amounts payable by Sublessee under this Sublease as would otherwise have been required to be paid by Sublessee to Sublessor during the period following the termination of this Sublease measured from the date of such termination to the expiration date stated in this Sublease. Such present value will be calculated at a discount rate equal to the 90-day U.S. Treasury bill rate at the date of such termination.

15.4 If, following an Event of Default, Sublessor terminates Sublessee's right of possession (but not this Sublease), Sublessor may, but will be under no obligation to, relet the Premises for the account of Sublessee for such rent and upon such terms as are satisfactory to Sublessor without thereby releasing Sublessee from any liability hereunder and without demand or notice of any kind to Sublessee. If the Premises are not relet, then Sublessee must pay to Sublessor as damages a sum equal to the amount of the rental reserved in this Sublease for such period or periods, plus the cost of recovering possession of the Premises (including, without limitation, reasonable attorneys' fees and costs of suit), the unpaid Rent and other amounts accrued hereunder at the time of repossession and the costs incurred in any attempt by Sublessor to relet the Premises. If the Premises are relet and a sufficient sum will not be realized from such reletting after first deducting therefrom, for retention by Sublessor, the unpaid Rent and other amounts accrued hereunder at the time of reletting, the cost of recovering possession (including, without limitation, reasonable attorneys' fees and costs of suit), all of the costs and expense of repairs, changes, alterations and

additions, the expense of such reletting (including, without limitation, brokerage fees and leasing commissions) and the cost of collection of the rent accruing therefrom] to satisfy the rent provided for in this Sublease to be paid, then Sublessee will immediately satisfy and pay any such deficiency. Any such payments due Sublessor will be made upon demand therefor from time to time and Sublessee agrees that Sublessor may file suit to recover any sums falling due from time to time. Notwithstanding any such reletting without termination, Sublessor may at any time thereafter elect in writing to terminate this Sublease for such previous default.

16. Brokerage. Sublessee represents and warrants that, other than \_\_\_\_\_ (the "Broker"), it has dealt with no broker, agent or other person in connection with this transaction and that no broker, agent or other person brought about this transaction. Sublessee must pay to the Broker all commissions and other compensation due as a result of this leasing transaction and must indemnify, defend and hold Sublessor harmless for, from and against any claims by the Broker or any other broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with Sublessee with regard to this leasing transaction.

17. Notices. All communications or notices required or permitted to be given or served under this Sublease must be in writing and will be deemed to have been duly given or made if (a) delivered in person or by courier (including, without limitation, by Federal Express or other courier), (b) deposited in the United States mail, postage prepaid, for mailing by certified or registered mail, return receipt requested, or (c) faxed with confirmed transmission and addressed as follows:

If to Sublessor:           Zoup Franchising Co., LLC  
                                  3135 1<sup>st</sup> Avenue N., Suite 15459  
                                  St. Petersburg, FL 33733  
                                  ATTN: CEO & President  
                                  Facsimile: (610) 894-7753

If to Sublessee:           At the Premises or  
                                  \_\_\_\_\_  
                                  \_\_\_\_\_  
                                  \_\_\_\_\_  
                                  Facsimile: \_\_\_\_\_

All communications and notices will be effective upon delivery in person or by courier to the address set forth in this Sublease, upon being deposited in the United States mail in the manner set forth above or upon being faxed in the manner set forth above. Any party may change his, her or its address or fax number by giving notice in writing, stating his, her or its new address, to the other party to this Sublease as provided in the foregoing manner.

18. Personal Property Taxes. Sublessee must comply with all legal requirements for filing a personal property tax return for, and paying all taxes assessed against, all personal property, equipment and fixtures located within the Premises during the Term hereof, such payment to be made by Sublessee directly to the taxing authority on or before the due date thereof.

19. Quiet Enjoyment. So long as Sublessee pays all amounts due hereunder and performs all other covenants and agreements herein set forth, and so long as no Event of Default exists, Sublessee must peaceably and quietly have, hold and enjoy the Premises for the term hereof without hindrance from Sublessor subject to the terms and provisions of this Sublease. As this is a Sublease, Sublessee agrees to take the Premises subject to the terms of the Lease and all matters of record.

20. Governing Law. This Sublease and all questions relating to its validity, interpretation, performance and enforcement will be governed by and construed, interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania, notwithstanding any conflict of laws provisions to the contrary.

21. Attorneys' Fees. If either party should prevail in any litigation or other legal proceeding instituted by or against the other related to this Sublease, the prevailing party, as determined by the court or the like, will receive from the non-prevailing party all costs and reasonable attorneys' fees (payable at standard hourly rates) incurred in such litigation or other legal proceeding, including, without limitation, costs on appeal, as determined by the court or the like. Sublessee must also pay to Sublessor, as additional rent, Sublessor's reasonable attorneys' fees incurred as a result of any breach or default by Sublessee under this Sublease.
22. Successors and Assigns. Subject to Section 9, which restricts Sublessee's rights to assign this Sublease and its rights hereunder, this Sublease will be binding upon and inure to the benefit of the parties and their respective assigns, legal representatives, executors, heirs and successors. Any attempt by Sublessee to assign this Sublease, or any of his or her rights hereunder, or to delegate his or her obligations hereunder, without compliance with the terms of Section 9 will be void. Notwithstanding anything contained in this Sublease to the contrary, Sublessor may assign this Sublease, or any of its rights hereunder, or delegate any of its obligations hereunder without the consent of Sublessee or any other person.
23. Guarantee. As further inducement for Sublessor to enter into this Sublease, all shareholders, officers and directors of the entity that executes this Sublease, in the event said entity is a corporation; all partners of the entity that executes this Sublease, in the event said entity is a partnership; and all managers and members of the entity that executes this Sublease, in the event said entity is a limited liability company, shall execute the Guarantee and Assumption of Obligations attached hereto as Exhibit B and incorporated herein by reference.
24. Joint and Several Liability. If Sublessee consists of more than one person or entity, the obligations hereunder will be joint and several.
25. Entire Agreement. This Sublease contains the entire understanding and agreement of the parties with respect to the subject matter hereof and supersedes, replaces and extinguishes all prior agreements and understandings between the parties with respect to that subject matter except for the terms of the Franchise Agreement and other related agreements. This Sublease supersedes all other subleases and agreements of intent to sublet between the parties hereto (or their respective affiliates) with respect to the Premises.
26. Counterparts. This Sublease may be executed in two or more counterparts, each of which will be considered one and the same agreement and will become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.
27. Time is of the Essence. Time is of the essence as to the performance of the parties' obligations under this Sublease.
28. Waiver of Right to Jury Trial, Class Action and Certain Damages. IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BETWEEN SUBLESSOR AND SUBLESSEE ARISING OUT OF THIS SUBLEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO, SUBLESSEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, (A) THE RIGHT TO A JURY TRIAL OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, (B) THE RIGHT TO INITIATE OR PARTICIPATE IN A GROUP ACTION OR CLASS ACTION IN ANY FORUM, INCLUDING, WITHOUT LIMITATION, ARBITRATION, AND (C) THE RIGHT TO SEEK OR COLLECT PUNITIVE, CONSEQUENTIAL AND SPECIAL DAMAGES IN ANY FORUM, INCLUDING, WITHOUT LIMITATION, ARBITRATION.

IN WITNESS WHEREOF, the parties have executed this Sublease, or caused this Sublease to be executed as of the Effective Date.

SUBLESSEE:

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

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

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

Type of entity: \_\_\_\_\_

SUBLESSOR:

ZOUP FRANCHISING CO., LLC

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

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

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

**Attachment 1  
TO SUBLEASE**

[COPY OF LEASE]



**Attachment 2  
TO SUBLEASE**

**GUARANTEE AND ASSUMPTION OF OBLIGATIONS**

NOTE: IF SUBLESSEE IS A CORPORATION, EACH OF SUBLESSEE'S SHAREHOLDERS MUST EXECUTE THE FOLLOWING UNDERTAKING. IF SUBLESSEE IS A PARTNERSHIP, EACH OF SUBLESSEE'S GENERAL PARTNERS MUST EXECUTE THE FOLLOWING UNDERTAKING. IF SUBLESSEE IS A LIMITED LIABILITY COMPANY, EACH OF SUBLESSEE'S MEMBERS AND MANAGERS MUST EXECUTE THE FOLLOWING UNDERTAKING.

**ARTICLE 1  
PERSONAL GUARANTEE**

In consideration of, and as an inducement to, the execution of that certain Sublease of even date herewith (the "Sublease") by Zoup Franchising Co., LLC ("Sublessor"), each of the undersigned hereby personally and unconditionally (1) guarantees to Sublessor, and its successors and assigns, for the term of the Sublease and thereafter, that Sublessee (as defined in the Sublease) shall punctually pay and perform each and every undertaking, agreement and covenant set forth in the Sublease and (2) shall be personally bound by, and personally liable for the default of each and every provision in the Sublease, both monetary obligations and obligations to take or refrain from taking specific actions or to engage or refrain from engaging in specific activities. Each of the undersigned waives: (1) acceptance and notice of acceptance by Sublessor of the foregoing undertakings; (2) notice of demand for payment of any indebtedness or non-performance of any obligations hereby guaranteed; (3) protest and notice of default to any party with respect to the indebtedness or non-performance of any obligations hereby guaranteed; (4) any right it may have to require that an action be brought against Sublessee or any other person as a condition of liability; (5) notice of amendment of the Sublease; and (6) any and all other notices and legal or equitable defenses to which it may be entitled.

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

**ARTICLE 2  
MISCELLANEOUS**

- 1 **Governing Law.** This Guarantee shall be deemed to have been made in and governed by the laws of the Commonwealth of Pennsylvania.
- 2 **Reserved.**
- 3 **Injunctive Relief.** Nothing contained in this Guarantee shall prevent Sublessor from applying to or obtaining from any court having jurisdiction, without bond, a writ of attachment, temporary injunction, preliminary injunction and/or other emergency relief available to safeguard and protect Sublessor's interest prior to the filing of any proceeding or pending the trial or handing down of a decision or award pursuant to any judicial proceeding conducted hereunder.

- 4 **Jury Trial Waiver.** THE PARTIES HEREBY AGREE TO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR EQUITY, REGARDLESS OF WHICH PARTY BRINGS SUIT. THIS WAIVER SHALL APPLY TO ANY MATTER WHATSOEVER BETWEEN THE PARTIES HERETO WHICH ARISES OUT OF OR IS RELATED IN ANY WAY TO THIS PERSONAL GUARANTEE OR THE SUBLEASE.
- 5 **Waiver of Punitive Damages.** You waive to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special or consequential damages (including, without limitation, lost profits) which you may have against us arising out of any cause whatsoever (whether such cause be based in contract, negligence, strict liability, other tort or otherwise) and agree that in the event of a dispute, your recovery shall be limited to actual damages. If any other term of this Personal Guarantee is found or determined to be unconscionable or unenforceable for any reason, the foregoing provisions shall continue in full force and effect, including, without limitation, the waiver of any right to claim any consequential damages.
- 6 **Attorneys' Fees.** If Sublessor institutes any judicial proceeding to enforce any monetary or nonmonetary obligation or interpret the terms of this Guarantee and the Sublease, and Sublessor prevails in such action, you shall be liable to Sublessor for all costs, including reasonable attorneys' fees, incurred in connection with such proceeding.
- 7 **Nonwaiver.** Sublessor's failure to insist upon strict compliance with any provision of this Personal Guarantee and the Lease shall not be a waiver of Sublessor's right to do so, any law, custom, usage or rule to the contrary notwithstanding. Delay or omission by Sublessor respecting any breach or default shall not affect Sublessor's rights respecting any subsequent breaches or defaults. All rights and remedies granted in this Guarantee shall be cumulative. Sublessor's election to exercise any remedy available by law or contract shall not be deemed a waiver or preclude exercise of any other remedy.
- 8 **Severability.** The parties agree that if any provisions of this Guarantee may be construed in two ways, one of which would render the provision illegal or otherwise voidable or unenforceable and the other which would render it valid and enforceable, such provision shall have the meaning, which renders it valid and enforceable. The language of all provisions of this Guarantee shall be construed according to fair meaning and not strictly construed against either party. The provisions of this Guarantee are severable, and this Guarantee shall be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein, and partially valid and enforceable provisions shall be enforced to the extent that they are valid and enforceable. If any material provision of this Guarantee shall be stricken or declared invalid, the parties agree to negotiate mutually acceptable substitute provisions. In the event that the parties are unable to agree upon such provisions, Sublessor reserves the right to terminate this Guarantee.
- 9 **Construction of Language.** Any term defined in the Sublease which is not defined in this Guarantee will be ascribed the meaning given to it in the Sublease. The language of this Guarantee will be construed according to its fair meaning, and not strictly for or against either party. All words in this Guarantee refer to whatever number or gender the context requires. If more than one party or person is referred to as you, their obligations and liabilities must be joint and several. Headings are for reference purposes and do not control interpretation.
- 10 **Successors.** References to "Sublessor" or "the undersigned," or "you" include the respective parties' successors, assigns or transferees.
- 11 **No Personal Liability.** You agree that fulfillment of any and all of Sublessor's obligations written in this Guarantee or in the Sublease or based on any oral communications which may be ruled to be binding in a Court of Law shall be Sublessor's sole responsibility, and none of Sublessor's employees,

representatives or other persons associated with Sublessor shall be personally liable to Sublessee or you for any reason.

**PERSONAL GUARANTORS**

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

**EXHIBIT J**  
**WORLDPAY CONTRACT**

**Merchant Business Information**

Application Type:  Never Accepted Cards  Processor Change  Ownership Change

Merchant Business Legal Name: (as shown on your business income tax return) \_\_\_\_\_

Business Name: (DBA/Outlet Name) \_\_\_\_\_ Business Website: **www.saladworks.com**

Federal Tax ID #: (as shown on your business income tax return) \_\_\_\_\_ Year Business Established: \_\_\_\_\_

Type of Goods or Services Sold: **Food & Beverage** Year Acquired by Current Owner: \_\_\_\_\_

**Physical Address (no PO Boxes)**  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax: \_\_\_\_\_

**Mailing Address (if different from physical address)**  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

**IRS Reporting Verification.** Payment settlement entities are required to report to the Internal Revenue Service the amount of reportable payment card transactions. Annually in January, you will receive a 1099-K providing details of your previous year reportable payment card transactions with a copy being filed electronically directly with the IRS. THE BUSINESS INFORMATION MUST MATCH IRS RECORDS, AND SHOULD AGREE WITH THE INFORMATION LISTED ON YOUR INCOME TAX RETURN. IF YOUR INFORMATION DOES NOT MATCH IRS RECORDS, THE PROCESSING OF YOUR APPLICATION MAY BE DELAYED AND YOU MAY BE SUBJECT TO MANDATORY BACKUP WITHHOLDING AS REQUIRED BY IRS REGULATIONS.

**Disclosure**

**IMPORTANT MEMBER BANK RESPONSIBILITIES:** (1) A Visa Member is the only entity approved to extend acceptance of Visa products directly to a Merchant. (2) A Visa Member must be a principal (signer) to the Merchant Agreement. (3) The Visa Member is responsible for educating Merchants on pertinent Visa Operating Regulations with which Merchants must comply. (4) The Visa Member is responsible for and must provide settlement funds to the Merchant. (5) The Visa Member is responsible for all funds held in reserve that are derived from settlement.  
**IMPORTANT MERCHANT RESPONSIBILITIES:** (1) Ensure compliance with cardholder data security and storage requirements. (2) Maintain fraud and chargeback below thresholds. (3) Review and understand the terms of the Merchant Agreement. (4) Comply with Operating Regulations. The responsibilities listed above do not supersede the terms of the Merchant Agreement and are provided to ensure the Merchant understands some important obligations of each party and that the Visa Member (Acquirer) is the ultimate authority should the Merchant have any problems.  
**Member Bank Information:** Name: Fifth Third Bank, 38 Fountain Square Plaza, Cincinnati, OH 45263 (866) 250-9764  
**Merchant Services Provider Contact Information:** Worldpay Integrated Payments, 150 Mercury Village Drive, Durango, CO 81301 1-800-846-4472

Signature: \_\_\_\_\_  
Name (printed): \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Business Profile**

Business Type:  Association/Estate/Trust\*  Individual/Sole Proprietor\*  Publicly Traded Corporation\*  Partnership  Private Corporation  Government Federal/State/Local\*  
 Limited Liability Company  Non-Profit/Tax Exempt  Financial Institution\*  SEC Registered/Other Exempt (i.e. Inv. Advisor/Co, exchange/clearing)\*  
\*exempt from Beneficial Owner requirements on page 2.  
If tax exempt please send your sales tax exemption certificate to your sales representative

Seasonal Business:  Yes  No If yes, enter the months of operation: \_\_\_\_\_  
% Card Swiped **95** % Manually Keyed with Imprinter **5**  
% MOTO \_\_\_\_\_ % Internet \_\_\_\_\_

Market Type:  Retail  Supermarket  Restaurant  
 E-Commerce  MO/TO  Lodging  
 Quick Serve  Other

Annual Visa/MC/Discover Sales (\$): **800000**  
Requested Highest Ticket (\$): **10000**  
Average Ticket (\$): **14**

Customer Return Policy:  Refund w/in \_\_\_\_\_ days  Exchange Only  None

The above sales volumes and average ticket \$ representations are integral and a condition to the rates and fees set forth in the Price & Equipment Schedule. If your actual sales volumes or average ticket \$ are different than the sales volumes or average ticket \$ represented above, you understand and agree that your rates and fees may be changed.

Have you ever had a previous credit card processor terminate your merchant account?  
 Yes  No  
If yes, by whom? \_\_\_\_\_

Do you offer warranties, dues, subscriptions, memberships or other extended services?  
 Yes  No  
Duration of extended service or benefit (weeks): \_\_\_\_\_

Have you had more than 25 chargebacks within the last 12 months?  Yes  No

% of Sales that are Business to Business \_\_\_\_\_

Do you accept transactions before the customer receives the product or service?  
 Yes  No Percent of sales in this category: \_\_\_\_\_

Does the Merchant use a Fulfillment House?  Yes  No  
If yes, was the Fulfillment House inspected?  Yes  No

Merchant Location:  Retail Location with Store Front  Office Building  
 Residence  Other: \_\_\_\_\_

The Merchant:  Owns  Leases the business premises

**Term of Agreement**

Initial Term 3 Year Year(s). See Sections 1.A and 7.B of the Terms and Conditions for information regarding the Term of this Agreement and Early Termination, including early termination fees.

**Designated Account: Bank Account to be used for Credit Card Processing Services:**

Bank Name:	Financial Institution 9 Digit Routing Number:	DDA/Checking Account Number:

**FUNDS MAY ONLY BE DEPOSITED INTO A BUSINESS CHECKING ACCOUNT. MERCHANT REPRESENTS THAT THE ABOVE BANKING INFORMATION IS CORRECT AND ACKNOWLEDGES, IF NO BANKING INFORMATION IS PROVIDED, MERCHANT WILL BE UNABLE TO PROCESS TRANSACTIONS UNTIL BANKING INFORMATION IS PROVIDED TO PROCESSOR.**

By checking this box, Merchant elects to opt out of receiving American Express Marketing Materials. If you have elected for the Marketing Opt-out, you may continue to receive marketing communications while American Express updates its records, and you will continue to receive important transaction or relationship messages from American Express. If you have not elected for the Marketing Opt-Out, your mailing address, phone number, email address, fax number, and/or cell (or mobile) phone number may be used by American Express to send commercial marketing messages, which may include information about American Express products, services and resources.

**Authorized Representative and Signer Information**

Authorized Representative/Signer Name (First Name, MI, Last Name):	Date of Birth:	Social Security Number:	
Street Address (Physical, no PO Boxes):	City:	State:	Zip:
Email:	Own or Rent:	Years There:	Home Phone:

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person (including business entities) who opens an account. What this means for you: When you open an account, we will ask for your name, physical address, date of birth, taxpayer identification number and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents. The undersigned entity(ies) and individuals hereby unconditionally authorize us and Member Bank or its agents to: (i) investigate the information and references contained herein, and to obtain additional information about the Merchant and such individual(s) by pulling credit bureau and criminal background checks on the Merchant and its principals, including obtaining reports from consumer reporting agencies on individuals signing below as an owner, general partner, authorized representative, or Guarantor of Merchant, or providing their Social Security Number on the Application (if such individual asks us or Member Bank whether or not a consumer report was requested, we and/or Member Bank will tell such individual and, if we and/or Member Bank received a report, we and/or Member Bank will give the individual the name and address of the agency that furnished it) and (ii) update such information periodically throughout the terms of service of the Agreement.

**Beneficial/Control Ownership – ONLY REQUIRED for Partnerships, Private Corporations, Limited Liability Companies, & Tax Exempt Organizations**

To help the government fight financial crime, federal regulation requires certain financial institutions to obtain, verify, and record information about the beneficial owners of certain legal entity customers. Legal entities can be abused to disguise involvement in terrorist financing, money laundering, tax evasion, corruption, fraud, and other financial crimes. Requiring the disclosure of key individuals who own or control a legal entity (i.e., the beneficial owners) helps law enforcement investigate and prosecute these crimes. For more information go to, <https://www.federalregister.gov/documents/2016/05/11/2016-10567/customer-due-diligence-requirements-for-financial-institutions>.

**Control Owner - An individual with significant responsibility to control, manage, or direct the legal entity**

Full Name (First, MI, Last):	Date of Birth:	Social Security#:	
Street Address (Physical, no PO Boxes):	City:	State:	Zip:

Check this box if Control Owner listed above is also a Beneficial Owner, if this box is checked you do not need to relist the Control Owner as a Beneficial Owner below.

**Beneficial Owner #1 – An owner who owns 25% or more of the legal entity**

Full Name (First, MI, Last):	Date of Birth:	Social Security#:	
Street Address (Physical, no PO Boxes):	City:	State:	Zip:

**Beneficial Owner #2 – An owner who owns 25% or more of the legal entity**

Full Name (First, MI, Last):	Date of Birth:	Social Security#:	
Street Address (Physical, no PO Boxes):	City:	State:	Zip:

**Beneficial Owner #3 – An owner who owns 25% or more of the legal entity**

Full Name (First, MI, Last):	Date of Birth:	Social Security#:	
Street Address (Physical, no PO Boxes):	City:	State:	Zip:

**Beneficial Owner #4 – An owner who owns 25% or more of the legal entity**

Full Name (First, MI, Last):	Date of Birth:	Social Security#:	
Street Address (Physical, no PO Boxes):	City:	State:	Zip:

**Additional Contact Information**

Name (First, MI, Last):	Name (First, MI, Last):
Role: <input type="radio"/> Authorized Representative <input type="radio"/> Primary Contact <input type="radio"/> Manager	Role: <input type="radio"/> Authorized Representative <input type="radio"/> Primary Contact <input type="radio"/> Manager
Phone Number:	Phone Number:
Email Address:	Email Address:

**Authorized Representative:** Has full rights to your account including: (i) changing banking information, contacts on account(s), and DBA information, and (ii) may view transactions on the portal and will be an admin on the portal, which grants employee access to the account(s).

**Primary Contact:** Can view transactions on the portal, call in transaction problems, change contacts on account(s), and change DBA information on all of your accounts. This may be an Accountant or General Manager. This person may also sign for gift card and terminal orders.

**Manager:** This person may call in transaction problems and view individual store transactions on the website.

**Cardholder Data Storage Compliance & Service Provider**

Do you use a third party to store, process or transmit cardholder data?  Yes  No
Do you store cardholder data?  Yes  No
Primary Service Provider or Software Developer:
Software used by third party:
Version #:
Are you compliant with the Payment Card Industry Data Security Standards?  Yes  No
Identify Security Assessor and certificate number:
Last Certification Date:
Have you ever experienced an Account Data Compromise?  Yes  No
If yes, provide date of compromise:
If yes, have you completed remediation?  Yes  No

All merchants must comply with the Payment Card Industry Data Security Standard ("PCI DSS"). Merchant is required to maintain the security of card data and to comply with the requirements of the PCI DSS. Merchant must validate its compliance with the PCI DSS and provide us with evidence that Merchant: (a) has successfully completed a Self Assessment Questionnaire and scan(s), if applicable, and (b) is compliant with the PCI DSS. We may offer one or more PCI products or services (the "PCI Program") to assist merchants in securing card data and complying with PCI DSS. Information on the PCI Program is set forth in Section 6.G of the Terms and Conditions and the applicable fees for the PCI Program are set forth above in this Merchant Application within the OmniShield Security and Risk Fee Schedule. All gateway or other vendor supplied software must be compliant with the Payment Application Data Security Standard rules ("PA-DSS").

**Merchant Authorization**

- Unless otherwise explicitly stated, all capitalized terms that are used but not defined in this Application have the meanings specified in the Agreement Terms and Conditions. This Agreement is between Worldpay Integrated Payments, LLC ("Processor", "us", "our" or "we"), the legal entity or sole proprietor identified on page 1 of this Application (the "Merchant", "you" or "your"), and the Member Bank named on page 1 of this Application ("Member Bank"). Member Bank is a member of Visa, U.S.A., Inc. ("Visa"), MasterCard International, Inc. ("MasterCard"), and Discover Financial Services, LLC ("Discover"). We are a registered independent sales organization of Visa, a member service provider of MasterCard and a registered acquirer for Discover.
- No modifications, alterations, or manual changes (including lining out fees, unless otherwise pre-approved and/or pre-designated by us) made to the Agreement will be effective unless we consent to them in a separate writing. This Agreement may be executed in counterparts. A scanned, facsimile, or duplicate copy of this Agreement executed by the parties shall be treated as an original.
- The undersigned individual ("Signer") represents and warrants that Signer is authorized to sign on behalf of Merchant and to bind Merchant to the terms of this Agreement. By Signer's signature below on behalf of Merchant, Signer certifies that: (i) Merchant has received a full and complete copy of this Agreement, (iii) Signer has read, understands, and accepts all of the terms and conditions in this paragraph and elsewhere in the Agreement, and (iv) all information provided in this Application is true and accurate.
- You irrevocably authorize us to initiate Automated Clearing House ("ACH") debit and/or credit entries from and to the Designated Accounts for all fees, costs, and amounts due to us or payable to you pursuant to this Agreement and ACH rules and regulations. In the event that a credit or debit entry is erroneously initiated, you authorize us immediately to correct such error. This ACH Authorization shall remain in full force and effect until we have collected payment on all fees, costs, and amounts due or which may become due pursuant to this Agreement. The Designated Account(s) may not be changed or altered without thirty (30) days prior written notification to us and the execution of any forms or instruments deemed reasonably necessary by us.
- The acceptance and processing of Merchant Sales Drafts by Member Bank and/or us shall be deemed the consent and execution by us and Member Bank of the Agreement and furthermore shall evidence ours and Member Bank's receipt of and approval and agreement to this Application signed by you. If you do not want to participate in the American Express Program, the applicable Opt Out Box has been marked.
- By signing below, Signer(s), on behalf of the Merchant: (i) agree(s) to be bound by all of the provisions of the Agreement, including the choice of law, jurisdiction, and venue provisions contained in the Terms and Conditions, and (ii) acknowledge(s) Merchant is aware of and must comply with the Rules Summary, and Association Operating Regulations. Signer(s) individually authorize(s) us or our representative to: (i) investigate Signer and/or Merchant by utilizing a third-party credit reporting agency, (ii) share information provided in this Application with third parties for fraud and risk purposes, and (iii) conduct an initial and ongoing comprehensive credit inquiry and/or investigation. In the event we do not approve your application for Services, you authorize us to share any information you have provided in this Agreement with our strategic partners for the possible provision of substantially similar services.
- Point of Sale Authorization: You hereby authorize the below listed point of sale representatives access to sensitive merchant account information to manage and configure your point of sale system functionality and complete installation.
Your authorized point of sale reseller is:
Your authorized point of sale developer is:

You acknowledge receipt of the "Merchant Processing Agreement" also referred to as the "Agreement" which consists of this page and the two (2) preceding pages and the accompanying Price and Equipment Schedule (the "Application"), and any other applicable amendments, schedules, exhibits, and attachments, including the documents listed below which accompany this Application or are otherwise provided to you via http://info.vantiv.com/vipcontract.html. This Agreement between the parties supersedes all prior agreements or representations between the parties whether written or oral regarding the subject matter of the Agreement. You represent that you have read the Agreement, including the portions contained on the Worldpay agreement website (http://info.vantiv.com/vipcontract.html), and you understand its terms and agree to be bound by them (including terms that we add or amend from time to time without notice and in our sole discretion). Whether or not we have formally approved your Application, your submission of a transaction for processing, whether to us, Member Bank, or our third-party providers, is an expression of your consent to the terms of the Agreement. You can request a copy of the Agreement at any time by contacting a Customer Service Representative at (866) 622-2390 or your Relationship Manager. If you disagree with any terms and conditions set forth in the Agreement, do not accept service or sign this Application.

- Terms and Conditions
- Addendum A – General Services Addendum
- Network Interchange Schedules (as applicable)
- Association and Network Fees Schedule
- Rules Summary
- Privacy Notice

Signature:
Name (printed):
Title:
Date:

**Unlimited Personal Guaranty**

In exchange for Processor's and Member Bank's acceptance of this Agreement, the person signing immediately below this paragraph (each a "Guarantor") is signing this Agreement as a Guarantor of the Merchant. By signing below, each Guarantor: (i) accepts and agrees to be bound by the Continuing Unlimited Guaranty provisions contained in Section 11 of the Terms and Conditions, and (ii) acknowledges and confirms that Guarantor received and read those Continuing Unlimited Guaranty provisions. The individual signing below authorizes us, Member Bank, and/or either of their representatives to conduct an initial and ongoing comprehensive credit investigation of Guarantor by utilizing a third-party credit-reporting agency.

, an individual Name (printed):
Date:

Home Address (Physical Address Only – No PO Boxes)
Years at Address
Date of Birth
Phone Number

This Application must be returned to Worldpay on or before July 15, 2019





**CONFIDENTIAL**  
**ADDENDUM A – GENERAL SERVICES ADDENDUM**  
**TO THE AGREEMENT**

This General Services Addendum including all exhibits, schedules and supplemental addenda hereto and all documents and materials referenced herein ("Addendum A") will be an addendum to the Merchant Processing Agreement or Bank Card Merchant Agreement, as applicable, ("Agreement") between Processor, Member Bank and Merchant in accordance with the provisions as set forth in the Agreement. If there is a conflict in the terms or pricing provided in this Addendum A and the pricing or terms in any price schedule or amendment otherwise contained in the Agreement, the pricing or terms contained in the Agreement, without reference to this Addendum A, will control.

**A. Services**

**1. Security Services.**

**a. Terms and Conditions.**

(i) OmniShield – generically refers to Processor's multiple security and risk products and services that collectively are meant to help merchants address payment fraud, data security, compliance and financial loss risks. OmniShield products and services are available to purchase through one of the following packages:

- OmniShield Enterprise
- OmniShield Assure
- OmniShield CNP

(ii) Merchant Risks – refers to the four, major risk areas associated with accepting, transporting and storing cardholder data

- Fraud – The use of a lost, stolen or counterfeit payment card by an unauthorized user that may result in additional merchant liability
- Data Security – The ability to convert clear, PCI sensitive payment data into a surrogate, PCI non-sensitive value that if captured by an unauthorized user cannot be used to commit fraud against the original cardholder
- Compliance – The ability to handle PCI sensitive payment card data in alignment with appropriate network rules and PCI standards
- Financial Loss – The potential impact of a merchant failing to address Fraud, Data Security and/or Compliance requirements (e.g., fines, fees, remediation costs, lawsuits, etc.)

(iii) OmniShield Enterprise – A service offering, limited to PCI Level 1 and PCI Level 2 merchants that subsequently requires the merchant to individually select one or more of the following security and risk products and services:

- PCI Assist
- EMV Support Services
- Encryption
- Tokenization
- eProtect (eProtect requires Tokenization to also be enabled)

(iv) OmniShield Assure – A required service offering for PCI Level 4 merchants and is limited to PCI Level 4 merchants only and bundles together all the following security and risk products and services:

- PCI Assist
- Breach Assist
- EMV Support Services
- Encryption
- Tokenization

(v) OmniShield CNP – A required service offering for PCI Level 3 and other 100% Card Not Present PCI Level 4 merchants and is limited to PCI Level 3 merchants and other 100% Card Not Present PCI Level 4 merchants only, and bundles together all the following security and risk products and services:

- PCI Assist
- Breach Assist

Additionally, PCI Level 3 merchants and 100% Card Not Present PCI Level 4 merchants may also select and buy separately:

- Tokenization
- eProtect (eProtect requires Tokenization to also be enabled)

(vi) PCI Assist – PCI Assist is a set of streamlined online tools to help merchants achieve, maintain and track PCI compliance. PCI Assist helps clients review PCI DSS compliance requirements and complete their Self Assessment Questionnaire (SAQ) and, as recommended, conduct periodic vulnerability scans of their network. PCI Assist is required for SAQ merchants to report their compliance status to Processor.

(vii) Non-Validation Fee (NVF) / Non-Compliance Fee (NCF) – In alignment with Terms and Conditions section 2, Merchant is responsible for demonstrating compliance with PCI DSS programs. Failure to report compliance validation status or reporting a failed status to Processor will result in a NVF/NCF being assessed. Active merchants will have a 60-day grace period to validate and report compliance validation status. Merchant's compliance validation and reporting status will be evaluated monthly. This fee will only be assessed if the Merchant has failed to report the status or has reported a failed status and will not be assessed once Merchant meets compliance requirements.

(viii) EMV Support – Europay, MasterCard, and Visa ("EMV") is a set of global standards for credit, debit and contactless card payments. EMV chip cards help prevent in-store fraud and are nearly impossible to counterfeit. Starting October 1, 2015 merchants who have not made the investment in chip-enabled technology may be held liable for card-present fraud. EMV acceptance requires an EMV enabled standalone terminal or POS system. Processor is enabled to process in-store EMV transactions to help reduce fraud

liability.

(ix) EMV Non-Enabled Fee - The EMV Non-Enabled Fee is applicable if Merchant does not have EMV enabled equipment and/or software. The EMV Non-Enabled Fee is determined based on the chargeback liability risk of Merchant's MCC as determined by Processor. Transactions will be evaluated monthly at the MID level and assessed at the chain level when applicable. This fee is based on the gross sales amount of each card present transaction.

(x) Breach Assist – In the event Merchant is enrolled in the Breach Assist Program ("BAP") offered by Processor through OmniShield or otherwise, the indemnification required by Merchant under this Agreement will only be reduced by amounts up to the limits set by the service provider that are actually recovered by Processor in connection with the BAP and only to the extent that such amounts are specifically related to a data breach involving solely Merchant. The limited indemnity waiver provided by the BAP will not cover all the costs associated with a data breach. The specific terms and conditions of the BAP are available for Merchant to review at [www.RoyalGroupServices.com/breach-assist/](http://www.RoyalGroupServices.com/breach-assist/) or by contacting a customer service representative at 1-800-393-1345.

(xi) Encryption – Encryption is a two-part service offering designed to: (i) encrypt (make unreadable) PCI sensitive payment data at the origin of the payment transaction and, (ii) decrypt payment data information at the destination of the transaction. Processor's service offering availability requires alignment between the encryption technology deployed within the Merchant's terminals and the decryption technology hosted by the service provider, which may require the use or upgrading of certain terminals and/or equipment or new message specifications (which will be at Merchant's sole expense) and may not be supported on all terminals/equipment.

Merchant acknowledges and agrees that encryption functionality is required and may require Merchant to license encryption technology from appropriate third party provider or authorized reseller and that said licensed functionality may incur fees in addition to those set forth herein. Merchant also acknowledges that provision of Processor's service offering to Merchant may require a corresponding decryption technology license and that Processor's service offering is subject to availability of required decryption license from applicable third party provider. Upon reasonable notice, Processor maintains the right to cease, modify or enhance providing the service offering without penalty and will use commercially reasonable efforts to offer a substitute service if applicable.

The value proposition associated with encrypting and decryption payment data (i.e., affects to Merchant's risk and compliance requirements) is affected by where the payment data is encrypted, the terminal type used for encryption, and the location where the payment data is decrypted. Processor has identified three different Encryption service offerings:

- Card Data Encryption – risk reduction, no scope reduction
- Point to Point Encryption – risk transference and scope reduction in alignment with PCI QSA evaluation
- Validated Point to Point Encryption – risk transference and scope reduction in alignment with PCI guidelines for PCI listed P2PE solutions

Point to Point Encryption assumes: (i) Payment data is encrypted within a PCI-PTS certified Secure Cryptographic Device (SCD), using a NIST defined strong encryption algorithm, with encryption keys that were generated and handled in alignment with X9 standards and (ii) Encrypted payment data is only decrypted by Processor within Processor's data systems.

Payment data information protected by the encryption service offering may include Track 1 or Track 2 data, obtained through a magnetic card swipe read, or PAN Data, obtained through manual entry directly into the SCD. The encryption service offering applies only to transactions that were encrypted and sent by the SCD to Processor's authorization and settlement systems pursuant to the Agreement. Supported transactions include, but may not be limited to, those associated with credit (signature), debit (signature) and debit (PIN).

(xii) eProtect – eProtect is a two part service designed to (i) capture payment data information from a given webpage using embedded Card Not Present eCommerce Data Security technology and, (ii) submitting the card data to a Processor hosted Card Not Present eCommerce Data Security server to exchange the card data for a Registration ID / Low Value Token before the data is transmitted back to the Merchant's eCommerce website. Merchant acknowledges and agrees that it will acquire said Card Not Present eCommerce Data Security functionality from the Processor and is responsible for all development effort necessary to embed said technology as appropriate within one or more Merchant web pages. Information protected by the Card Not Present eCommerce Data Security Service includes Primary Account Number (PAN) Data manually entered into any webpage that includes embedded Card Not Present eCommerce Data Security technology. The resulting Registration ID / Low Value Token must subsequently be submitted to the Processor's processing systems within a configurable timeframe to facilitate the exchange of the Registration ID / Low Value Token for a High Value, Multi-Use Tokenization (see Tokenization Service). Merchant acknowledges that provision of the Card Not Present eCommerce Data Security services to Merchant is subject to Merchant completing integration and certification efforts with Processor. Merchant acknowledges that eProtect will result in Merchant automatically being enrolled in

Processor's Tokenization service.

(xiii) Tokenization - Tokenization is a service in which cardholder PAN data, once received by the Processor, is replaced with a surrogate ("Token") value. Deliverables of the Tokenization service include: (1) the creation of tokens and (2) the recognition and use of a Processor issued pre-existing token to support all post authorization transactions with the Processor, which includes initiating a new authorization with a token value. Data necessary to convert tokens back to PAN data will be maintained in Processor's systems. Merchant access to the Tokenization service requires integrating and certifying systems to token services using Processor's appropriate message specification. Message specifications are limited to those that exist in Processor's current Service offering. The Parties agree that the scope of the Tokenization service does not include the certification or systematic configuration of third parties or firmware licensing as selected by the Merchant to support Tokenization services. The processor has identified the following types of Tokenization services.

- OmniTokens are tokens generated in such a way as to retain some of the digits of the original card value, be format preserving (i.e., length preserving and character set preserving), and be consistent across numerous requests (i.e., the same card value will result in the same token value in the context of a given merchant). OmniTokens are not limited to a specific platform and can be used interchangeably between processor's different platforms.
- mTokens are tokens generated in such a way as to be unique for each given transaction and format non-preserving. The link between a card value and an mToken is indirect in that the mToken references a given transaction, which in turn references a given card value. Note: mTokens are limited to transactions processed through processor's S1 platform only.
- eTokens are tokens generated in such a way as to be unique for each given transaction and format non-preserving. eTokens are used as an index value into processor's data vault, which subsequently stores the associated card value. Note: eTokens are limited to transactions processed through processor's Express platform only.

Non-Standard, GUI and Batch Tokenization are separate and unique service offerings and respective fees will be quoted to Merchant for the use of each service.

- "Standard Tokenization" is provided on a per transaction basis in-line with each authorization request
- "Non-Standard Tokenization" is provided as separate "non-authorization" message to the Processor that results in a token being generated and returned outside of a purchase transaction
- "Graphical User Interface (GUI) Tokenization" is provided for Merchant operations personnel with appropriate credentials to convert or revert card values and tokens via Processor provided product interface(s).
- "Batch Tokenization" / "Batch Detokenization" is provided as a file based service to support the mass conversion of any existing store of cardholder data, and will mean the process of receiving a file that includes multiple values, performing the tokenization / detokenization process as appropriate for each value and returning a response file that includes the corresponding appropriate value.

Upon Tokenization services termination, Merchant will have 90 days to request, via written request to Processor, a Batch De-Tokenization of the Merchant's token store, located within the Merchant's systems. For purposes herein, Batch De-Tokenization will mean the process of the Processor receiving a file from Merchant that includes multiple token values, Processor performing the de-tokenization process for each token value and Processor returning a response file to Merchant that includes the corresponding card values for each token. After 90 days, Processor will no longer be responsible for maintaining the data necessary to De-Tokenize Merchant's token store or able to guarantee availability of data. Upon mutual agreement, Processor may offer the Merchant De-Tokenization Data Management Services under a separate agreement to support the token store after the termination of the current agreement supporting Tokenization services.

(xiv) Security Services – Merchant may utilize OmniShield products and services ("Security Services") in conjunction with services provided wholly or partially by a third party with the support and agreement of Processor. Merchant bears all risk and responsibility for conducting Merchant's own due diligence regarding the fitness of Security Services for a particular purpose and for determining compliance with the Bank Rules, the Operating Regulations, and the Laws. Accordingly, Merchant's use of Security Services is at Merchant's own risk. Processor's decision to offer Security Services will not limit Merchant's duties and obligations contained in this provision or the Agreement. Processor does not warrant or guaranty that use of the Security Services, in itself, will: (i) result in Merchant's compliance with Bank Rules, Operating Regulations, and/or Laws; (ii) prevent any and all unauthorized breaches of your terminals, systems or facilities; or, (iii) be uninterrupted or error-free. Merchant agrees that it will not acquire any interest in (ownership, intellectual property or otherwise) in any of the third party provider software used to provide the Security Services. Merchant will not, and will have no right to, own, copy, distribute, sub-lease, sub-license, assign or otherwise transfer any portion of such third-party provider software used to provide the Security Services or any materials provided by Processor or to modify, decompile, or reverse engineer any such software, materials, or the Services.

(xv) triPOS® Service - The triPOS® Service is a turnkey, EMV certified payment processing application designed to process transactions that is compatible with the Processor's processing platform and helps reduce the scope of Merchants' PCI-DSS with P2PE and tokenization technology.

b. Pricing

- (i) OmniShield Enterprise (see below footnotes 1 and 2) Quoted

(ii) OmniShield Assure (see below footnotes 1 and 3)	See application
(iii) OmniShield CNP (see below footnotes 3 and 4)	Quoted
(iv) PCI Assist (see below footnotes 1 and 5)	Quoted
(v) P2PE (see below footnote 1)	Quoted
(vi) eProtect (see below footnote 1)	Quoted
(vii) OmniToken™ (see below footnote 1)	Quoted
(viii) Vault™	See application
(ix) PCI Non-Validation Fee (see below footnote 6)	\$19.95/MID/Month
(x) EMV Non-Enabled Fee	
Low Risk	0.05% of the gross sales per month
Moderate Risk	0.15% of the gross sales per month
High Risk	0.27% of the gross sales per month
(xi) triPOS™ Service	See application

Footnotes to above Section A.1(b).

1. Pricing provided as a separate attached quote or for level 4 merchants on the Application
2. Available only to PCI Level 1 and PCI Level 2 merchants
3. Required by and available only to PCI Levels 4 merchants.
4. Required by and available only to PCI Level 3 merchants and 100% Card Not Present PCI Level 4 merchants
5. Required by merchants using a PCI DSS SAQ
6. Assessed only if merchant fails compliance validation or fails to report compliance validation

**2. Electronic Benefits Transfer ("EBT") Services.**

The Financial Management Services ("FMS") of the U.S. Department of Treasury, and/or various of the EBT Program State(s)/Alliance(s), have entered into agreement(s) with third party processor(s) (collectively and individually, "Contractor") to manage the EBT Program(s) implemented by FMS and/or the EBT Program State(s)/Alliance(s).

Processor has entered into agreements with one or more Contractors (collectively and individually "Processor Agreement") which permit Processor to be an acquirer processor in certain of the EBT Programs.

Acquirer Services will mean the data processing systems and procedures provided by Processor to facilitate Merchant's participation in the EBT Program(s). In the event Merchant receives any of the Acquirer Services or otherwise participates in any of the EBT Programs, Merchant agrees to the following obligations which are in addition to Merchant's obligations in the Agreement and in addition to any other obligations in the Operating Rules relating to the EBT Program(s) and/or Acquirer Service(s), as they may be amended from time to time.

1. Merchant will be solely responsible for obtaining a copy of the then current Operating Rules for each EBT Program in which Merchant elects to participate from the applicable Contractor, EBT Program State/Alliance, FMS or Processor, no less than 30 days prior to the commencement of Merchant's participation in each such EBT Program. Merchant agrees to abide by and fully comply with the documentation as may be in effect from time to time, and to perform and fulfill any and all obligations and responsibilities, and discharge any and all duties and liabilities relating to Processor, Contractors or retailers to which it may be subject in accordance with such documentation or other rules or regulations adopted by Contractor(s), FMS or the EBT Program States/Alliances, or which may arise in any other manner or from any other source related to the Acquirer Services or the EBT Program(s).
2. Merchant will provide personnel, one of whom will be a management level technical interface person, to monitor, oversee and maintain its devices participation in the EBT Program(s). This personnel will also be responsible for monitoring Merchant's compliance with documentation, including but not limited to, each EBT Program's procedures and requirements applicable to Customer and its processor and for ensuring Merchant fulfills all of its responsibilities in connection with its participation in each EBT Program.
3. Processor will make available to Merchant activity files of its EBT Program transactions in a Processor format, unless similar information is provided by Processor through other services provided to Merchant.
4. Processor will not provide: (i) routing of activity files received from Contractor(s) to Merchant; or (ii) any other files or reports not specifically described above. Merchant will be responsible for, and agrees to pay Processor, all telecommunications fees, assessments and related expenses in connection with Processor establishing and maintaining a link with each Contractor in order to provide Acquirer Service to Merchant. Processor may allocate such fees, assessments and related expenses in such manner as it deems advisable in its sole discretion.
5. Merchant agrees to allow the auditors of Processor, Contractor(s), FMS or the EBT Program State(s)/Alliance(s), to review the files held and procedures followed, and inspect the facilities used, by Merchant in connection with the Acquirer Services or the EBT Program(s). Processor may be required to perform on-site inspections of Merchant's premises and Merchant agrees to be responsible for Processor's out-of-pocket expenses and its standard fees for the time spent by Processor's personnel (which will be assessed at Processor's then current Standard Hourly Rate) in conducting such on-site inspections.

6. Merchant agrees to immediately notify Processor and the applicable Contractor in writing of any changes in the goods and services for which EBT Program cards are accepted as payment from participants in the applicable EBT Program.

7. Merchant authorizes Processor to provide Contractor(s), FMS and/or the EBT Program State/Alliance with such information about Merchant, as requested or required according to the Processor Agreement(s), the Retailer Agreement(s), the Operating Rules or the other documentation, or as may be required to participate in the EBT Program(s).

8. Merchant agrees to take all steps necessary to settle with Processor for EBT Program transactions involving Merchant's terminals in accordance with Processor's standards and documentation; and Merchant will be responsible for making any necessary reconciliation or adjustments with the documentation. Processor will provide Merchant standard Processor reports for the services provided to Merchant. Merchant will always maintain an open checking account at a financial institution which Processor or its agent can access through the Federal Reserve's Automated Clearing House ("ACH") system. Merchant authorizes Processor and its agents to debit and/or credit the account to settle any and all amounts due under the Agreement and any Addenda including, but not limited to, processing fees and transaction settlement. Unless otherwise agreed to in writing by Processor, Merchant will be treated as one settlement endpoint with respect to all transactions processed by Processor using Acquirer Services. Merchant will always maintain the account with sufficient cleared funds to meet its obligations under this Agreement. In the event Merchant desires to change the account or the financial institution where the account is located, Merchant will give Processor at least 30 days prior written notice of any such change.

**3. TransForm® Tokenization Services.**

a. TransForm Tokenization. In addition to the terms of the Agreement, these TransForm Tokenization Service terms apply to Merchant's use of the Account Updater Service and TransForm Tokenization Service to store authorized customer billing information for recurring transactions and may be provided by Processor and one or more affiliates of Processor.

b. Definitions. The following terms when used in this Agreement will have the meanings set forth in this section:

- i. "Account Updater Service" means a service provided through the Associations that enables Merchants to determine if a cardholder's account number has been updated by the cardholder's issuer, provided that the cardholder's issuer is a participant in the Account Updater program. The availability or functionality of the Account Updater Service may be modified by the Associations or Processor's acquiring bank upon notice to Merchant.
  - ii. "Authentication Data" means the full magnetic stripe data, the CVV2/CVC2/CID and the PIN or PIN block located on credit cards and debit cards.
  - iii. "PAD" means payment account data, including but not limited to credit and debit card account data, expiration month and year, cardholder name, checking account number, and customer bank routing information.
  - iv. "PAI" means Payment Account Identifier. PAI is a unique identifier that is assigned by Processor that references a payment account record.
  - v. "TransForm® Tokenization Service" means the Processor service designed to move Merchant's customer cardholder data offsite to Processor's PCI DSS compliant storage facility. Processor's servers create and then return a unique PAI to the Merchant's software application. Encryption is used to protect cardholder data while in transit. Using the PAI, Merchant can bill a card on file and/or schedule automatic payments, enabling the Merchant to securely process transactions from payment account records.
- c. Pricing. The rate and fees set forth in the Application for TransForm Tokenization and Account Updater apply. Processor will charge Merchant the monthly fee set forth in the Application per MID for its use of the TransForm Tokenization Service.

i. TransForm Tokenization Service Storage Fees. Merchant agrees to pay Processor the TransForm Tokenization fixed monthly fee listed in the Application which, if not listed is \$30.00, per MID provided that the total PAIs stored for such MID does not exceed the PAI Maximum per month (the "PAI Maximum") which such PAI Maximum is listed in the Application which, if not listed is 500. Should the total PAIs stored in any month for such MID exceed the PAI Maximum, Merchant agrees to pay the additional fee listed in the Application which, if not listed, is \$0.09, per each PAI stored in such month for such MID in excess of the PAI Maximum.

ii. Account Updater Service Pricing. Merchant agrees to pay Processor the Account Updater setup fee, fixed monthly fee, and updater fee listed in the Application which amounts, if not listed in the Application, are respectively \$99.00, \$30.00, and \$0.80. Merchant may terminate receipt of the Account Updater Service at any time upon 30 days prior written notice to Processor without further liability for the Account Updater Services other than for charges incurred but unpaid as of the effective date of such termination. Processor will charge Merchant the one-time set-up fee per Merchant identification number ("MID"), a fixed monthly charge per MID, and a charge per valid update for use of the Account Updater Service. The set-up fee is applied upon the start or re-start of Account Updater Service for each MID. A "valid update" is as an update in which a match for the cardholder's account number is made and either; (i) a new account number is provided, (ii) information that the account has been closed is provided, (iii) a new expiration date is provided, or (iv) a "contact cardholder" message has been provided.

d. Term. These TransForm Tokenization terms will run coterminous with the Merchant Processing Agreement. Processor may additionally terminate provision of the TransForm Tokenization Services on 30 days prior written notice to Merchant for any or no reason; or immediately (a) if Merchant is in material breach of its obligations under the Agreement, including these TransForm Tokenization terms, (b) in order to comply with applicable law or requests of governmental, administrative or judicial authorities, or (c) if Processor reasonably believes that continuing to provide the TransForm Tokenization

Service to Merchant could create a substantial economic or technical burden or material security risk for Processor.

e. Access to Information After Termination. Upon termination of Merchant's use of the TransForm Tokenization Services and within five business days of agreement between the parties on the means of transfer and after Merchant's payment of the data retrieval fee based on the number of Merchant's stored records as set forth in the table below, Processor will provide a data file including all stored records to a PCI DSS compliant facility designated by Merchant. The data retrieval fee will be calculated cumulatively so that all stored records will be billed at the same lower fee per record once a higher volume tier is reached. Records may only be provided to a PCI DSS compliant facility with file format and encryption requirements to be determined in Processor's reasonable discretion.

STORED DATA	DATA RETRIEVAL FEE
1 - 5,000 PAI's	\$2,000 (minimum data retrieval fee)
5001 - 250,000 PAI's	\$0.40 per stored record
250,001 - 500,000 PAI's	\$0.35 per stored record
500,001 - 750,000 PAI's	\$0.25 per stored record
750,001+ PAI's	\$0.20 per stored record

f. Communication Methods. Merchant will establish and maintain secure data communication connections and will transmit data to Processor in the format required by Processor.

g. Use of TransForm Tokenization. Merchant will immediately update PAD upon additions, deletions, and changes to the underlying data. Merchant will create, delete, and query payment account records in accordance with instructions provided by Processor.

h. Use of Account Updater. Merchant must have an existing relationship with the cardholder in order to make an inquiry using the Account Updater Service and hereby agrees to comply with the Merchant requirements of the Account Updater terms of use as set forth in the Operating Regulations. The Account Updater Service may not interface with third party software or third party services, if Merchant uses third party software or a third party service to process recurring transactions then Merchant understands and agrees that Merchant may be required to make manual updates to recurring transaction information based on Account Updater Service updates.

i. Disclaimer of Warranties. The TransForm® Tokenization Service is being provided to Merchant by Processor "as-is" and without any warranty of any kind. Processor disclaims any express or implied warranty, including but not limited to implied warranties of merchantability, non-infringement, or fitness for a particular purpose.

j. Indemnification. In addition to the indemnification obligations of Merchant under the Terms and Conditions to the Agreement, Merchant agrees to indemnify, defend and hold harmless Member Bank and Processor, its employees, officers, agents, shareholders, representatives and directors from any and all fines, penalties, losses, claims, expenses (including attorney fees and the allocable costs of in-house counsel), or other liabilities resulting from or in connection with; (i) Merchant's use of the TransForm Tokenization Service, (ii) Merchant's storage of any cardholder data, or (iii) Merchant's breach of the herein TransForm Tokenization terms.

k. Limitation of Liability. In addition to Processor's limits of liability set forth under the Terms and Conditions to the Agreement, under no circumstances will Processor be liable to Merchant or any third party for any indirect, special, incidental, consequential, punitive, exemplary or multiple damages arising out of or related to Processor's provision of the TransForm Tokenization Service hereunder, regardless of the legal theory on which such claim is based (whether based in contract, tort, warranty, strict liability, negligence, or any other legal theory), even if Processor has been advised, knew, or should have known of the possibility of such damages (which include, but are not limited to, loss of profits, revenue, savings, software, data or goodwill, the claims of third parties, and/or injury to persons or property). The parties expressly agree that the total liability of Processor (including, without limitation, for Processor's performance or the failure of such performance hereunder, or for any breach hereof) will be exclusively limited to an amount equal to the aggregate TransForm Tokenization service fees actually received by Processor from Merchant during the one month period ending on the date on which the event giving rise to the claim for damages occurred. Merchant accepts the restrictions on its right to recover additional damages as part of its bargain with Processor, and Merchant understands and acknowledges that, without such restrictions, the consideration for the services provided hereunder would be higher.

**4. Chargeback Service Fee.**

The below tiered Chargeback Service Fee shall apply to Merchant. Beginning on the Effective Date the Chargeback Service Fee will be charged monthly per MID at the below Tier 1 amount and thereafter, on a semi-annual basis, which first such semi-annual period may be less than six (6) months, Merchant's highest annual number of chargebacks within the term of the Agreement, shall determine the applicable monthly fee tier assessed. In the event Merchant has twenty-six (26) or more chargebacks in any annual period, thereafter Merchant will be charged \$25.00 per chargeback, in lieu of a monthly fee. If Merchant has less than twelve (12) months of transaction history with Processor, Merchant's actual number of chargebacks will be annualized in the above semi-annual reviews to determine the below applicable tier. Notwithstanding the foregoing, if Processor at any time, in its reasonable discretion, believes that Merchant will have twenty-six (26) or more chargebacks in any annual period, upon notice to Merchant, Processor may charge Merchant a fee of \$25.00 per chargeback, in lieu of a monthly fee.

Tier	Annual Number of Chargebacks	Monthly Fee
1	0	\$7.50
2	1-2	\$10.00
3	3-4	\$15.00
4	5-8	\$20.00
5	9-12	\$25.00
6	13-17	\$30.00
7	18-21	\$35.00
8	22-25	\$40.00

**5. Additional Services or Expenses.**

Merchant agrees that Processor may charge Merchant for any non-specified service it provides Merchant ("Additional Service") or expense it incurs on behalf of Merchant ("Additional Expense") any time after Merchant's initial receipt of the same, and Merchant agrees to pay for such service (at Processor's standard fees in effect from time to time) or expense in accordance with this Agreement. Merchant acknowledges and agrees that it will notify Processor in writing and in accordance with the notice provisions of the Agreement in the event Merchant does not want the Additional Service and that such written notice will be sent to and actually received by Processor within 90 days of Merchant's first receipt of the Additional Service ("Additional Service Cancellation"). Merchant will not dispute, and will be unconditionally obligated to pay for, any Additional Service fees for which Merchant has not provided and Processor has not actually received an Additional Service Cancellation in accordance with the foregoing and any Additional Expense.

**6. Store and Forward Service.**

The Store and Forward service is a secondary, offline option of credit card acceptance enabled typically in the event of internet connectivity down-time. Store and Forward may be applicable as a temporary solution for businesses needing to accept payments in environments without access to the internet, such as trade shows or farmer's markets. Optionally, businesses sometimes elect to process offline transactions with a working internet during times of peak business demand. When Store and Forward is enabled, it allows merchants to store transactions offline until either internet connectivity has been restored or the business need subsides. Offline transactions are then forwarded to Processor for a valid card issuer authorization. From the cardholder's perspective, the transaction flow is unchanged, yet the important distinction for the merchant is that the transaction is not authorized in real time and may in fact decline when forwarded. Where there are benefits to this functionality in maintaining transaction up-time especially during times of internet uncertainty, there are also risks and an assumption of liability by you which need to be carefully considered as set forth below in this section. You understand and agree that use of the Store and Forward Services is dependent on the point of sale system configuration and capabilities for the processing of such service transactions which you are solely responsible. Further, with regard to the Store and Forward services, it is important that you and your point of sale service providers and integrated software vendors understand and agree that there are inherent risks when not obtaining an authorization at the time of the transaction and those risks, between you and us, rest solely on you. Transactions processed via Store and Forward are high risk and may be declined, error out, or otherwise fail to process when forwarded to us. When enabling Store and Forward, you accept full liability for all transactions, whether or not an authorization approval code is received, including loss of revenue due to declined or failed transactions, chargebacks, and losses, fees, fines, and penalties related to transactions processed via the Store and Forward application. Further, we are not liable to you in the event the transaction data is not stored within the point of sale device for any reason. We make no warranty, expressed or implied, with respect to servicing, processing, or acceptance of Store and Forward transactions and you assume all liability when using or otherwise accepting to process in a Store and Forward/offline manner.

**7. FastAccess™ Funding Service.**

a. FastAccess™ Funding Program Services. The FastAccess funding program provides accelerated funding of Merchant's card transactions, typically between two and five hours after settlement of Merchant's credit and debit card transactions, by way of Original Credit Transaction ("OCT") through VisaNet or Maestro which permits Processor through Member Bank to initiate credits to a designated Visa or MasterCard debit card account that Merchant will be requested to provide (the "FastAccess Services"). Prior to using the FastAccess Services Merchant must provide Processor a debit card account in a PCI compliant manner. The debit card account designated by Merchant must be a U.S. issued debit card with an institution that is enabled for OCT transactions. Merchant authorizes Processor to initiate a zero dollar authorization to such account as part of the establishment of Merchant's use of the FastAccess Services.

b. Pricing. The fee for the FastAccess Services is listed on the Application and charged on a per occurrence/deposit basis. If no fee is listed on the Application then Merchant will be charged Processor's then standard rate for the use of the FastAccess Services.

c. FastAccess Services Terms, Conditions and Limits. The FastAccess Services are part of the Services under the Merchant Processing Agreement and subject to the terms and conditions of Merchant's use of Services under the Merchant Processing Agreement as well as the terms, restrictions, and condition in this Addendum A which include those listed below:

- i. Limits. The per transaction limit applicable to the FastAccess Services is \$15,000.00. Daily limits also apply.
- ii. Limitations on Availability of FastAccess Service. FastAccess Services is not supported by all Card issuers.
- iii. Changes to or Removal of Attributes, Requirements, and Functionality. Visa, Maestro, and Processor may at any time change or remove any of the

attributes, requirements, and functional specifications related to the OCT and FastAccess funding program or withdraw such services entirely.

iv. Default Settlement and Suspension of Service. Transactions that do not meet the requirements, exceed the limits, or are otherwise not settled via the FastAccess Services shall route your settlement via the normal ACH Card transaction settlement solution under the Services. The trigger of certain limits or limitations may suspend the use of the FastAccess Services.

d. Disclaimer and Limitation of Liability. Merchant understands and agrees that the disclaimer of warranties and limitation of liabilities applicable to Processor and Member Bank set forth under the Merchant Processing Agreement apply to the herein FastAccess Services and neither Processor nor Member Bank shall be liable to Merchant for any loss, delay, error, interruptions or damage of any kind or character, whether direct, indirect or consequential, resulting from the use, delay, inoperability, or other failure of the FastAccess Services.

**8. Virtual Terminal Service.**

Processor's Virtual Terminal Service (the "VT Services") is an enhancement to Processor's Online Reporting Services. Merchant acknowledges and understands that the VT Services allow Merchant to effectuate Card transactions within the Online Reporting Services application in accordance with Processor's standards and procedures. Merchant shall be solely responsible for all authorized or unauthorized use of the VT Services arising out of or related to Merchant's use of the VT Services including but not limited to unauthorized transactions initiated via the use of Merchant's User ID's. Merchant acknowledges that use of a software application that has connectivity to the Internet poses an increased risk, and Merchant assumes all liability for such risks. Merchant warrants and represents to Processor that it has implemented and will maintain secure systems for use of the VT Services and the transmission of information to Processor. Merchant further acknowledges and agrees that Processor's only obligation will be to make the VT Services available on Processor's system in accordance with Processor's then-current standards. Merchant acknowledges and agrees that Processor's Online Reporting Services are required for use of the VT Services and that Processor's standard terms, conditions, and fees associated with the Online Reporting Services shall be and remain in effect. Merchant shall pay the following fees to Processor for the VT Services in addition to Processor's fees for the Online Reporting Services:

- i) Program Setup Fee up to \$150.00
- ii) Monthly Usage Fee: up to \$30.00/month
- iii) Transaction Fee up to \$0.08/transaction\*

\*This fee is in addition to all other applicable fees and charges for a transaction.

**EXHIBIT K**  
**STATE ADDENDA**

## CALIFORNIA ADDENDUM TO DISCLOSURE DOCUMENT

1. The Special Risks Page is supplemented to include the following:

If the franchise does not open within twelve (12) months from the date the franchise agreement is signed, you can be terminated for cause.

2. Item 3 is supplemented to include the following:

Neither the franchisor nor any person in Item 2 of the FDD is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a *et seq.*, suspending or expelling such person from membership in such association or exchange.

3. Item 17 of the FDD is supplemented to include the following:

California Business & Professions Code Sections 20000 through 20043 provides rights to the franchisee concerning termination, transfer, or nonrenewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the California Business & Professions Code Sections 20000 through 20043 will control. The franchise agreement requires the parties to waive their rights to a trial by jury in connection with lawsuits arising out of the franchise relationship. This provision may not be enforceable under California law.

The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

4. Item 19 of this disclosure document is modified to include the following paragraph:

The financial performance representation figures do not reflect the costs of sales, operating expenses, or other costs or expenses that must be deducted from the gross revenue or gross sales figures to obtain your net income or profit. You should conduct an independent investigation of the costs and expenses you will incur in operating your franchised business. Franchisees or former franchisees, listed in the disclosure document may be one source of this information.

5. The franchise agreement provides for termination on bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 *et seq.*).

6. The franchise agreement contains a covenant not to compete, which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

7. Prospective franchisee/developers are encouraged to consult private legal counsel to determine the applicability of California any federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

8. This agreement requires application of the laws of the Commonwealth of Pennsylvania. This provision may not be enforceable under California law.

9. Section 31125 of the California Corporation Code requires the franchisor to give the franchisee a disclosure document, in a form and containing such information as the Commissioner may by rule or order require, before a solicitation of a proposed material modification of an existing franchise.

10. You must sign a release if you transfer your franchise. California Corporations Code 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code 31000

through 31516). Business and Professions Code 20010 voids a waiver of your rights under the Franchise Relations Act (Business Professions Code 2000 through 20043).

11. As per California Rule 310.156.3(a)(3):

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION & INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION & INNOVATION AT [www.dfpi.ca.gov](http://www.dfpi.ca.gov).

12. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.

## **ILLINOIS ADDENDUM TO DISCLOSURE DOCUMENT**

1. Item 17 is supplemented to include the following disclosure:

The conditions under which your franchise can be terminated and your rights on nonrenewal may be affected by Illinois law, 815 ILCS 705/19 and 705/20.

Illinois law governs the franchise agreement(s).

Any provision which designates jurisdiction or venue or requires Franchisee/Developer to agree to jurisdiction or venue in a forum outside of Illinois is void with respect to any cause of action which is otherwise enforceable in Illinois, except arbitration may take place outside the State of Illinois.

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.



**ILLINOIS RIDER  
TO FRANCHISE AGREEMENT**

This Rider shall pertain to franchises sold in the State of Illinois and shall be for the purpose of complying with Illinois statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement shall be amended as follows:

1. Section 18.1 of the Franchise Agreement shall be supplemented as follows:

Illinois law governs the franchise agreement(s).

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. In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a form outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.

4. To the extent of any inconsistencies, the Franchise Agreement is hereby amended to further state:

“To the extent any provision regarding termination or renewal of the Franchise Agreement is inconsistent with the Illinois Franchise Disclosure Act §§ 815 ILCS §§ 705/19 and 705/20, the provisions of these sections of the Act will control.”

**INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES HERETO HAVE CAUSED THIS ILLINOIS RIDER TO BE EXECUTED EFFECTIVE AS OF THE DATE OF THE FRANCHISE AGREEMENT.**

**ZOUP FRANCHISING CO., LLC**

**FRANCHISEE:**

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

\_\_\_\_\_

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

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

**FRANCHISEE:**

\_\_\_\_\_

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

## MARYLAND ADDENDUM TO DISCLOSURE DOCUMENT

1. Item 17 is supplemented to include the following disclosures:

The franchise agreement provides that we may terminate the franchise, if you voluntarily or involuntarily file for bankruptcy, as described in the “Summary of Cause Defined” (provision (h.)). This provision may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 *et. seq.*)

Any general release signed as a condition to renewal, sale, assignment, or transfer of these agreements will not release us from any liability imposed by the Maryland Franchise Registration and Disclosure Law.

Section 14-216(c)(25) of the Maryland Franchise Registration and Disclosure Law requires us to file an irrevocable consent to be sued in Maryland. Accordingly, the Summary of the Choice of Forum (provision (v.)) is amended to provide that you may file a lawsuit alleging a cause of action arising under the Maryland Franchise Registration and Disclosure Law in any court of competent jurisdiction within the State of Maryland.

Section 14-227 of the Maryland Franchise Registration and Disclosure Law provides that any action brought under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise

## **MARYLAND RIDER TO FRANCHISE AGREEMENT**

In recognition of the requirements of the Maryland Franchise Registration and Disclosure Law, MD Ann. Code art. 56, Sections 345-365D, the parties to the attached Zoup Franchising Co., LLC Franchise Agreement agree as follows:

1. Section 2.2.8. of the Franchise Agreement shall be supplemented by the addition of the following language to the end of those respective Section:

; pursuant to Code of Maryland Regulations section 02.02.08.16L, any general release required of the franchisee as a condition of renewal, sale, assignment and/or transfer shall not apply to any release from liability under the Maryland Franchise Registration and Disclosure Law. The sections of this Agreement which contradict this Code provision are amended accordingly.

2. Section 14.3.2.3 of the Franchise Agreement shall be supplemented to include the following language to the end of those section:

; pursuant to Code of Maryland Regulations section 02.02.08.16L, any general release required of the franchisee as a condition of renewal, sale, assignment and/or transfer shall not apply to any release from liability under the Maryland Franchise Registration and Disclosure Law. The sections of this Agreement which contradict this Code provision are amended accordingly.

4. Section 18.3 of the Franchise Agreement shall be supplemented as follows:

; provided, however, that franchisee representative may file a lawsuit alleging a cause of action arising under the Maryland Franchise Registration and Disclosure Law in any court of competent jurisdiction in the State of Maryland.

5. Section 18.8 of the Franchise Agreement shall be supplemented by the addition of the following:

;provided however, that all rights enjoyed by franchisee and any causes of action arising in developer's favor from the provisions of the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

6. Section 23 of the Franchise Agreement shall be supplemented by the addition of the following sub-section:

The foregoing acknowledgments are not intended to nor shall they act as a waiver or release by franchisee of any claims arising under the Maryland Franchise Registration and Disclosure Law.

Each provision of this Rider shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently without reference to this Amendment.

**INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES HERETO HAVE CAUSED THIS MARYLAND RIDER TO BE EXECUTED EFFECTIVE AS OF THE DATE OF THE FRANCHISE AGREEMENT.**

**ZOUP FRANCHISING CO., LLC**

**FRANCHISEE/ENTITY:**

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

## MINNESOTA ADDENDUM TO DISCLOSURE DOCUMENT

1. Item 13 is supplemented to include the following disclosure:

We will protect your right to use the trademarks, service marks, trade names, logotypes or other commercial symbols or will indemnify you from any loss, costs or expenses arising out of any claim, suitor demand regarding the use of the marks to the extent required by Minnesota law.

2. Item 17 is supplemented to include the following disclosures:

Minnesota law provides franchisee/developers with certain termination and nonrenewal rights. As of the date of this disclosure document, Minn. Stat. Sec. 80C.14, Subds. 3, 4 and 5 require, except in certain specified cases, that a franchisee/developer be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for nonrenewal of the franchise.

Minn. Stat. Sec. 80C.21 provides that 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 Minnesota or, in the case of a partnership or corporation, organized or incorporated under the laws of Minnesota, or purporting to bind a person acquiring any franchise to be operated in Minnesota to waive compliance or which has the effect of waiving compliance with any provision of §§ 80C.01 to 80C.22 of the Minnesota Franchises Act, or any rule or order thereunder, is void.

Minn. Stat. § 80C.21 and Minn. Rule 2860.4400J prohibit us 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. However, we may seek to obtain injunctive relief without the posting of a bond, if permitted by the court. In addition, nothing in the franchise disclosure document or agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

To the extent you must sign a general release in our favor, such release will exclude liabilities arising under the Minnesota Franchises Act, Minn. Stat. §80C.01 *et seq.* as provided by Minn. Rule 2860.4400J.

3. Section 18.7 of the franchise agreement will have no further force or effect and the following is substituted in its place:

Nothing herein contained shall prevent us from applying to and seeking to obtain from any court having jurisdiction a writ of attachment, a temporary injunction, preliminary injunction, and/or other emergency relief available to safeguard and protect our interests.

## MINNESOTA RIDER TO FRANCHISE AGREEMENT

This Rider shall pertain to franchises sold in the State of Minnesota and shall be for the purpose of complying with Minnesota statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, shall be amended as follows:

1. Minnesota law provides franchisee with certain termination and nonrenewal rights. As of the date of this Agreement, Minn. Stat. Sec. 80C.14, Subds. 3, 4 and 5 require, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice of nonrenewal of the Franchise rights.
2. We will protect your right to use the trademarks, service marks, trade names, logotypes or other commercial symbols or will indemnify you from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the marks to the extent required by Minnesota law.
3. Minn. Stat. § 80C.21 and Minn. Rule 2860.4400J prohibit us 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. However, we may seek to obtain injunctive relief without the posting of a bond, if permitted by the court. In addition, nothing in the franchise disclosure document or agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.
4. To the extent you are required to execute a general release in our favor, such release shall exclude liabilities arising under the Minnesota Franchises Act, Minn. Stat. § 80C.01 *et seq.* as provided by Minn. Rule 2860.4400J.
5. Any claims brought under to the Minnesota Franchises Act, § 80C.01 *et seq.* must be brought within 3 years after the cause of action accrues. To the extent that any provision of the Franchise Agreement imposes a different limitations period, the provision of the Act shall control.
6. Section 18.7 of the Franchise Agreement shall have no further force or effect and the following shall be substituted in lieu thereof:

Nothing herein contained shall prevent us from applying to and seeking to obtain from any court having jurisdiction a writ of attachment, a temporary injunction, preliminary injunction, and/or other emergency relief available to safeguard and protect Zoup's interests.

**INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES HERETO HAVE CAUSED THIS MINNESOTA RIDER TO BE EXECUTED EFFECTIVE AS OF THE DATE OF THE FRANCHISE AGREEMENT.**

**ZOUP FRANCHISING CO., LLC**

**FRANCHISEE/ENTITY:**

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

## NEW YORK ADDENDUM TO DISCLOSURE DOCUMENT

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

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THIS DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE NEW YORK STATE DEPARTMENT OF LAW, INVESTOR PROTECTION BUREAU, 28 LIBERTY STREET, 21<sup>ST</sup> FLOOR, NEW YORK, NEW YORK 10005. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

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

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

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

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

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

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities



exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of Item 4:

Neither the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after that officer or general partner of the franchisor held this position in the company or partnership.

4. The following is added to the end of Item 5:

The initial franchise fee constitutes part of our general operating funds and will be used as such in our discretion.

5. 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.

6. 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.

7. The following is added to the end of the “Summary” section of Item 17(j), titled “**Assignment of contract by franchisor**”:

However, no assignment will be made except to an assignee who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor’s obligations under the Franchise Agreement.

8. 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.

**NEW YORK RIDER  
TO FRANCHISE AGREEMENT**

In recognition of the requirements of Article 33 of the General Business Law of the State of New York, the parties to the Zoup Franchising Co., LLC Franchise Agreement agree as follows:

1. Section 14.3.2.3 of the Franchise Agreement shall be supplemented by adding the following language at the end of the Section:

provided, however, that all rights enjoyed by Franchisee/developer and any causes of action arising in franchisee 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 provision that the non-waiver provisions of Sections 687.4 and 687.5 of the General Business Law be satisfied;

2. Section 18.1 of the Franchise Agreement, which is generally under the heading entitled “Choice of Law,” shall be supplemented by the addition of the following language at the end of the Section:

However, the foregoing choice of law shall not be considered a waiver of any right conferred upon franchisee by the provisions of Article 33 of the General Business Law of the State of New York.

3. Each provision of this Rider shall be effective only to the extent that the jurisdictional requirements of the General Business Law of the State of New York, Sections 680-695, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

**-Remainder of Page Intentionally Blank-**

**INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES HERETO HAVE CAUSED THIS NEW YORK RIDER TO BE EXECUTED EFFECTIVE AS OF THE DATE OF THE FRANCHISE AGREEMENT.**

**ZOUP FRANCHISING CO., LLC**

**FRANCHISEE/ENTITY:**

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

## NORTH DAKOTA ADDENDUM TO DISCLOSURE DOCUMENT

1. Item 17 is amended by the addition of the following language:
  - a. Covenants not to compete on termination or expiration of a franchise are generally unenforceable in North Dakota, except in certain instances as provides by law.
  - b. Any provision in the franchise agreement which designates jurisdiction or venue or requires the franchisee/developer to agree to jurisdiction or venue in a forum outside of North Dakota is void with respect to any cause of action which is otherwise enforceable in North Dakota.
  - c. Any provision in the franchise agreement which requires a franchisee/developer to waive his or her right to a jury trial has been determined to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law.
  - d. Any provision requiring a franchisee to sign a general release on renewal of the franchise agreement has been determined to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law.
  - e. Apart from civil liability as set forth in Section 51-19-12 of the N.D.C.C., which is limited to violations of the North Dakota Franchise Investment Law (registration and fraud), the liability of the franchisor to a franchisee/developer is based largely on contract law. Despite the fact that those provisions are not contained in the franchise investment law, those provisions contain substantive rights intended to be afforded to North Dakota residents and it is unfair to franchise investors to require them to waive their rights under North Dakota Law.
  - f. Any provision in the franchise agreement requiring that the agreement be construed according to the laws of a state other than North Dakota are unfair, unjust or inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law.

## **NORTH DAKOTA RIDER TO FRANCHISE AGREEMENT**

This Rider pertains to franchises sold in the State of North Dakota and is for the purpose of complying with North Dakota statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Franchise Agreement is amended as follows:

1. Section 17 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants not to compete may not be enforceable under North Dakota law.

2. Section 18.3 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota may not be enforceable in North Dakota.

3. Section 18.1 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

For North Dakota Franchisee, North Dakota law shall apply.

4. Section 2.2.8 of the Franchise Agreement is hereby amended by the addition of the following language that appears therein:

Provisions requiring North Dakota franchisee to sign a general release upon renewal of the franchise agreement are not enforceable in North Dakota.

5. Section 22.9 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Provisions requiring the franchisee to pay all costs and expenses incurred by the franchisor in enforcing the agreement have been determined to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. Therefore, for North Dakota franchisee, this provision shall be amended to provide that the prevailing party in any enforcement action is entitled to recover all costs and expenses including attorney's fees.

6. Any language imposing liquidated damages upon termination or other termination damages in the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Provisions requiring the franchisee to consent to termination or liquidated damages have been determined to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. Therefore, for North Dakota franchisee, this provision shall be deleted in its entirety.

7. Section 18.10 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Provisions requiring the franchisee/developer to consent to a waiver of exemplary and punitive damages are not enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law.

**INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES HERETO HAVE CAUSED THIS NORTH DAKOTA RIDER TO BE EXECUTED EFFECTIVE AS OF THE DATE OF THE FRANCHISE AGREEMENT.**

**ZOUP FRANCHISING CO., LLC**

**FRANCHISEE/ENTITY:**

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

## **RHODE ISLAND ADDENDUM TO DISCLOSURE DOCUMENT**

1. Item 17 (u) is amended to read: §19-28.1-21 (a) A person who violates any provision of this act is liable to the franchisee for damages, costs, and attorneys and experts fees. In the case of a violation of §§19-28.1-5, 19-28.1-8, or 19-28.1-17(1)-(5), the franchisee may also sue for rescission. No person will be liable under this section if the defendant proves that the plaintiff knew the facts concerning the violation. (b) Every person who directly or indirectly controls a person liable under this section, every principal executive officer or director of the liable person, every person occupying a similar status or performing similar functions, and every agent or employee of a liable person, who materially aids in the act or transaction constituting the violation, is also liable jointly and severally with and to the same extent as the person liable under this section, unless the agent, employee, officer, or director proves he or she did not know, and in the exercise of reasonable care could not have known of the existence of the fact by reason of which the liability is alleged to exist.

2. Item 17 (v)(w) is amended to read: §19-28.1-14 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.

## **VIRGINIA ADDENDUM TO DISCLOSURE DOCUMENT**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the franchise disclosure document for Zoup Franchising Co., LLC for use in the Commonwealth of Virginia is amended as follows:

The following statements are added to Item 17(h):

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



## WASHINGTON ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

## WASHINGTON ADDENDUM TO THE FRANCHISE AGREEMENT

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

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**-Remainder of Page Intentionally Blank-**

**THE UNDERSIGNED DOES HEREBY ACKNOWLEDGE RECEIPT OF THIS  
ADDENDUM, EFFECTIVE AS OF THE DATE OF THE FRANCHISE AGREEMENT.**

**ZOUP FRANCHISING CO., LLC**

**FRANCHISEE/ENTITY:**

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

**FRANCHISEE/PRINCIPAL:**

\_\_\_\_\_

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

## STATE EFFECTIVE DATES

The following states 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 Franchise Disclosure Document is registered, on file or exempt from registrations in the following states having franchise disclosure laws, with the following effective dates:

<b><u>STATE</u></b>	<b><u>EFFECTIVE DATE</u></b>
California	PENDING
Illinois:	PENDING
Indiana:	PENDING
Maryland:	PENDING
Minnesota:	PENDING
New York:	PENDING
North Dakota:	PENDING
Rhode Island:	PENDING
South Dakota:	PENDING
Virginia:	PENDING
Washington:	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.

**EXHIBIT L**

**RECEIPTS**

**RECEIPT  
Your Copy**

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Zoup Franchising Co., LLC. (“we” or “us”) 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, us or an affiliate in connection with the proposed franchise sale.

New York and Rhode Island require that we give you this disclosure document at the earlier of the 1st personal meeting, or 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

Iowa requires that we give you this disclosure document at the 1st personal meeting.

Michigan requires that we give you this disclosure document 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If we do 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 should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state agency identified on Exhibit F.

The name, principal business address and telephone number of each franchise seller offering the franchise: Bryan Kelly Roddy and Brian Farris, all at Zoup Franchising Co., LLC, 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, Florida, 33733, (610) 894-7753.

Date of Issuance: April 1, 2023

See Exhibit F for our registered agents authorized to receive service of process.

I have received a disclosure document dated \_\_\_\_\_ that includes the following Exhibits:

- |   |   |
|---|---|
| Exhibit A -- Zoup Franchising Co., LLC Franchise Agreement, and Attachments | Exhibit G -- Sample Termination and Release Agreement |
| Exhibit B -- Franchisees  | Exhibit H -- Sysco Application and Agreement          |
| Exhibit C -- Former Franchisees   | Exhibit I -- Sublease                                 |
| Exhibit D -- Table of Contents of Operations Manuals                        | Exhibit J -- Worldpay Contract                        |
| Exhibit E -- Financial Statements   | Exhibit K -- State Riders                             |
| Exhibit F -- Agencies/Agents for Service of Process                         | Exhibit L -- Receipts                                 |

\_\_\_\_\_  
Prospective Franchisee

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

\_\_\_\_\_

Date  
Received: \_\_\_\_\_  
(If other than date signed)

\_\_\_\_\_  
Address

KEEP THIS COPY FOR YOUR RECORDS. This disclosure document is available in PDF format by request to Vice President of Development at [fransales@zoup.com](mailto:fransales@zoup.com).

**RECEIPT  
Our Copy**

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Zoup Franchising Co., LLC. (“we” or “us”) 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, us or an affiliate in connection with the proposed franchise sale.

New York and Rhode Island require that we give you this disclosure document at the earlier of the 1st personal meeting, or 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

Iowa requires that we give you this disclosure document at the 1st personal meeting.

Michigan requires that we give you this disclosure document 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

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| Exhibit E -- Financial Statements   | Exhibit K -- State Riders                             |
| Exhibit F -- Agencies/Agents for Service of Process                         | Exhibit L -- Receipts                                 |

\_\_\_\_\_  
Prospective Franchisee

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

Date  
Received: \_\_\_\_\_  
(If other than date signed)

\_\_\_\_\_  
Address

PLEASE SIGN THIS COPY OF THE RECEIPT, DATE YOUR SIGNATURE, AND RETURN IT TO US ADDRESSED AS FOLLOWS: Franchise Administration, Zoup Franchising Co., LLC, 3135 1<sup>st</sup> Avenue N., Suite 15459, St. Petersburg, Florida, 33733, (610) 894-7753. This disclosure document is available in PDF format by request to Vice President of Development at [fransales@zoup.com](mailto:fransales@zoup.com).