

EXHIBIT A
FRANCHISE AGREEMENT

ATHLETIC NATION FRANCHISE CORP.

FRANCHISE AGREEMENT

This Franchise Agreement ("Agreement") is entered into by and between Athletic Nation Franchise Corp., a California corporation ("FRANCHISOR") and _____ ("FRANCHISEE") and is effective _____, 2006.

A. FRANCHISOR through its skill, efforts, and money has developed a franchised business system which specializes in providing group and personal fitness training to men at our facilities ("System");

B. The System is identified by means of certain trade names, trademarks, logotypes, telephone numbers, and domain names as set forth in this Agreement which are used in connection with the System ("Proprietary Marks"); and

C. FRANCHISOR agrees to license to FRANCHISEE the System and the Proprietary Marks and FRANCHISEE accepts this license pursuant to the terms of this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. GRANT OF FRANCHISE AND FRANCHISED TERRITORY

FRANCHISOR hereby grants to FRANCHISEE the right, and FRANCHISEE assumes the obligation, to use the System and Proprietary Marks solely in connection with the operation of one (1) Athletic Nation Men's Fitness Gym franchise ("the Franchised Business") within the following "Franchised Territory."

FRANCHISEE's Franchised Territory is the area within one (1) mile of your facility. Your facility shall be located with the follow geographical area:

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Note that the geographical area set forth above is NOT your Franchised Territory. It merely limits where your facility may be located. Your Franchised

Territory is the area within one (1) mile of your facility, once the location of your facility is selected.

FRANCHISEE shall select a specific facility location within the geographical area set forth above within three (3) months of signing this Agreement. FRANCHISOR will provide guidance and assistance in selecting a specific location. FRANCHISEE shall not relocate its franchised business within or outside of the Franchised Territory without the prior written approval of FRANCHISOR. FRANCHISOR makes no guarantees or assurances whether the Franchised Territory and/or the specific location selected by the FRANCHISEE will be profitable or successful.

FRANCHISOR reserves the right to refuse any relocation that would adversely affect other franchisees or otherwise cause economic harm to the System.

FRANCHISOR expressly agrees that it will not grant any other franchises or establish a company-owned facility within the Franchised Territory.

FRANCHISEE understands that there are no restrictions on where Athletic Nation Men's Fitness Gym franchisees may advertise or from where they may derive their clientele. A Franchised Territory does not guarantee or assure you of a protected base of potential customers.

2. INITIAL TERM AND OPTION TO RENEW

The initial term of this Agreement, unless terminated earlier as provided herein, shall be for a period of fifteen (15) years. It shall commence upon the effective date of this Agreement and shall expire fifteen (15) years thereafter.

FRANCHISEE shall have the option to extend the term of this Agreement for an additional fifteen (15) year period, upon written notice given by FRANCHISEE to FRANCHISOR not less than six (6) months nor more than twelve (12) months prior to the scheduled expiration date of this Agreement, provided that each of the following conditions is satisfied:

(a) FRANCHISEE shall, in a manner reasonably satisfactory to FRANCHISOR, renovate, refurbish, or reconstruct the Franchised Business and facility at FRANCHISEE's expense prior to the effective date of the extension to conform to the then current Franchise Agreement, Operations Manual, and laws, codes, and regulations;

(b) FRANCHISEE shall not be in default of any provision of this Agreement, or any other agreement between FRANCHISEE and FRANCHISOR or its affiliates, or any standards set forth in the Operations Manual, and FRANCHISEE shall have complied with all the terms and conditions of this Agreement, the Operations Manual and any other

agreements during the term of this Agreement;

(c) FRANCHISEE shall have satisfied all monetary obligations owed by FRANCHISEE to FRANCHISOR;

(d) FRANCHISEE shall execute FRANCHISOR's then-current Franchise Agreement (and any related documents) for the successor term, which agreement shall supersede this Agreement in all respects;

(e) FRANCHISEE shall comply with FRANCHISOR's then current qualification and training requirements;

(f) FRANCHISEE agrees to comply with FRANCHISOR's then current Operations Manual;

(g) FRANCHISEE shall pay FRANCHISOR a fee of \$10,000.00 for the right to exercise the option; and

(h) FRANCHISEE shall execute a general release, in a form prescribed by FRANCHISOR, of any and all claims which FRANCHISEE may have or believes to have against FRANCHISOR and/or its affiliates and their respective officers, directors, agents and employees, whether the claims are known or unknown, which are based on, arise from or relate to this Agreement and/or transactions in any way related thereto.

3. OBLIGATIONS OF FRANCHISOR

In return for payment of FRANCHISEE's franchise fee and the other fees set forth herein, and as long FRANCHISEE is in compliance with all terms of this Agreement and the Operations Manual, FRANCHISOR will provide FRANCHISEE with the following:

(a) Site Selection: Before FRANCHISEE opens the Franchised Business, FRANCHISOR may, but is not obligated to, assist FRANCHISEE with site selection. As set forth previously, FRANCHISOR makes no guarantees or assurances whether the Franchised Territory and/or the specific location selected by FRANCHISEE will be profitable or successful.

(b) Facility Requirements: FRANCHISOR will provide FRANCHISEE with guidelines and minimum standards for the appearance and operation of FRANCHISEE's facility. FRANCHISEE remains solely responsible for complying with all laws, regulations, codes, and rules.

(c) Training of Personnel: FRANCHISOR will use its best efforts to train FRANCHISEE as set forth in Section 10 of this Franchise Agreement.

(d) **Operations Manual:** FRANCHISOR will deliver on loan to FRANCHISEE a confidential Operations Manual. The Operations Manual will address various aspects concerning the operations, administration, and marketing of the Franchised Business. The Operations Manual will always remain FRANCHISOR's absolute property and must be returned in the event that FRANCHISEE's franchise ends or is terminated. The Operations Manual must be followed with no deviations unless such deviations are approved in advance in writing by FRANCHISOR. FRANCHISOR may amend the Operations Manual from time to time. FRANCHISEE shall promptly implement any System change upon receipt of notice thereof from FRANCHISOR

(e) **Marketing, Promotion, and Advertising Assistance:** FRANCHISOR may, but is not obligated to, provide FRANCHISEE with guidelines and suggestions on advertising that FRANCHISEE creates. FRANCHISOR reserves the right to prohibit FRANCHISEE from using advertising that does not meet FRANCHISOR's standards. All advertising that FRANCHISEE uses must be submitted in advance to FRANCHISOR for approval.

(f) **Ongoing Assistance:** FRANCHISOR will provide FRANCHISEE with ongoing assistance concerning the operation of FRANCHISEE's Franchised Business. FRANCHISOR reserves the right, upon reasonable notice, to inspect FRANCHISEE's Franchised Business to insure that FRANCHISEE maintains the System's operational standards.

(g) **Website:** FRANCHISOR will maintain a website concerning various aspects of Athletic Nation Men's Fitness Gym and the related franchise. It will include information on franchisee locations and the services provided.

(h) **Nationwide Telephone Number:** FRANCHISOR will maintain a nationwide, toll free telephone number that the public may use to obtain information about the products and services that franchisees provide.

Except as set forth above and/or elsewhere in this Agreement, FRANCHISOR is obligated to provide no other assistance to FRANCHISEE.

FRANCHISEE acknowledges and agrees that any duty or obligation imposed on FRANCHISOR by this Agreement may be performed by any designee, employee, or agent of FRANCHISOR.

FRANCHISEE shall be and remain solely responsible for the operation of the Franchised Business at all times and shall hold FRANCHISOR, its affiliates and their respective directors, officers, employees and agents, harmless therefrom. FRANCHISEE shall not look to FRANCHISOR for performance of regular operational duties.

4. INITIAL FRANCHISEE FEE

FRANCHISEE shall pay to FRANCHISOR a franchise fee of Twenty-five thousand dollars (\$25,000) upon execution of this Agreement. This fee shall be deemed fully earned and non-refundable when paid, in consideration of administrative and other expenses incurred by FRANCHISOR in entering into this Agreement, and for FRANCHISOR's lost or deferred opportunity to enter into this Agreement with others. The franchise fee payment will be refunded within ten (10) days if FRANCHISOR rejects the application of FRANCHISEE.

5. ROYALTY PAYMENTS

FRANCHISEE shall pay to FRANCHISOR, without deduction, abatement or offset, a continuing royalty fee in an amount equal to Ten Percent (10.0%) of Gross Revenue. Gross Revenue includes all revenues, less sales tax, which (a) are or could be received or earned by or with respect to the Franchised Business, (b) are or could be received or earned by FRANCHISEE or on FRANCHISEE's behalf or for FRANCHISEE's benefit and which relate to the type of products, services, materials, inventory, items, supplies, promotional items, equipment or any other items which are or could be provided, through or in association with the Franchised Business and/or (3) are or could be received or earned by FRANCHISEE or on FRANCHISEE's behalf or for FRANCHISEE's benefit and which are or could be provided, in association with any use of FRANCHISOR's trademarks, techniques, systems, procedures, know-how, or any other aspect of the franchised system. Billings are included in Gross Revenue for the month in which FRANCHISEE sends the billing to the customer. If the account proves to be uncollectible by FRANCHISEE after (a) a minimum of 120 days and (b) FRANCHISEE's best efforts to collect the account, any royalty payment FRANCHISEE have made to FRANCHISOR with respect to such billing may be deducted from future royalties. To qualify as "best efforts", FRANCHISEE must engage in personal action by (including written demand letters) to collect the account followed by either (i) referring the account to a collection agency or (ii) pursuing the matter in court. On FRANCHISOR's request, FRANCHISEE must supply the documentation of such efforts. If the account is thereafter collected by FRANCHISEE, FRANCHISEE must immediately pay the royalty to FRANCHISOR.

Royalty payments shall be paid on a weekly basis. They are due and payable on the Monday following the previous seven day period (Monday through Sunday) of each week. The payments due on each Monday are for the preceding week. The payment shall be accompanied by all reports and statements required by the Operations Manual.

Should FRANCHISEE relocate its facility (after receiving written permission of FRANCHISOR), FRANCHISEE shall not be relieved of the obligation to pay royalties. Minimum royalties during the relocation period shall be the average of the previous four months' royalty payments prior to commencement of relocation activities.

6. TERMS APPLICABLE TO ALL PAYMENTS DUE

If any payment under this Agreement is overdue, FRANCHISEE shall pay to FRANCHISOR, immediately upon demand, in addition to the overdue amount, interest on such amount from the date it was due until paid, at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less. Entitlement to such interest shall be in addition to any other remedies FRANCHISOR may have. FRANCHISEE shall pay to FRANCHISOR an administrative fee of \$50.00 for each dishonored check.

In order to secure payment of all royalty fees, advertising fees, lease payments, and all other sums that are more than 30 days overdue to FRANCHISOR, or its affiliates, from FRANCHISEE and to secure performance by FRANCHISEE of all obligations of any kind, more than 30 days overdue, in favor of FRANCHISOR, or its affiliates, FRANCHISEE hereby grants FRANCHISOR a security interest in and to all leasehold improvements, fixtures, furnishings and equipment, inventory, and supplies located at or used in connection with the Franchised Business, now or hereafter acquired by FRANCHISEE, together with all accounts, payment intangibles, attachments, accessories, additions, substitutions and replacements, all cash and non-cash proceeds derived from insurance or the disposition of such assets.

FRANCHISEE hereby authorizes FRANCHISOR to prepare and file all Uniform Commercial Code financing statements and other documents necessary or desirable to evidence, perfect and continue the priority of this security interest under the Uniform Commercial Code.

If FRANCHISEE is in default of any of the terms and conditions of this Agreement or any related agreement, FRANCHISOR may, in its discretion, exercise its rights with respect to its security interest. In such event, FRANCHISEE shall be and remain liable for any deficiency remaining due to FRANCHISOR and shall be entitled to recover any surplus which results after application of the proceeds derived from the enforcement of FRANCHISOR's security interest.

FRANCHISEE shall pay to FRANCHISOR, within fifteen (15) days of any written request by FRANCHISOR which is accompanied by reasonable substantiating material, any monies which FRANCHISOR has paid, or has become obligated to pay, on behalf of FRANCHISEE, by consent or otherwise under this Agreement.

7. REQUIREMENTS FOR FRANCHISEE PERSONNEL

All managers and employees at FRANCHISEE's facility shall be certified trained and meet all of the standards of ethics and training as prescribe by the Operations Manual.

8. INITIAL EQUIPMENT AND SUPPLIES

FRANCHISEE shall purchase all required equipment and supplies necessary to commence operation of the Franchised Business. The list of initial equipment and supplies to be purchased is set forth in Attachment 1. The cost of the initial equipment and supplies is between Ten Thousand Dollars (\$10,000.00) and Twelve Thousand Five Hundred Dollars (\$12,500.00). Payment is due when you receive the equipment and supplies. FRANCHISEE is required to maintain inventory levels of equipment and supplies as set forth in the Operations Manual and to purchase from the suppliers and vendors which are set forth in the Operations Manual.

9. STANDARDS REGARDING LOCATION OF FRANCHISED BUSINESS

FRANCHISEE's Athletic Nation Men's Fitness Gym facility must meet minimum standards established by the FRANCHISOR. FRANCHISEE's facility must be of approximately 900 to 1500 square feet and include a cardiovascular (cardio) training room for two treadmills and one recumbent bicycle. These minimum standards are set forth in more detail in the Operations Manual.

FRANCHISEE shall be responsible, at FRANCHISEE's expense, for obtaining all zoning classifications, permits, and clearances, including, but not limited to, certificates of occupancy and fire department approvals, which may be required by federal, state, or local laws, ordinances, or regulations. FRANCHISEE shall certify in writing to FRANCHISOR that all such classifications, permits, and clearances have been obtained. FRANCHISEE shall also take necessary steps to insure the premises comply with all applicable requirements of the Americans with Disabilities Act.

All tenant improvements and repairs performed at the facility shall be accomplished by a properly licensed and insured contractor.

FRANCHISEE must submit its proposed building lease to FRANCHISOR for approval. FRANCHISOR will not unreasonably withhold its approval. FRANCHISEE shall comply with all terms of its lease.

Prior to opening its facility, FRANCHISEE must notify FRANCHISOR of its intent to open the facility. FRANCHISOR shall then, within ten (10) business days, inspect the facility. FRANCHISEE must correct any deficiencies noted by FRANCHISOR prior to opening its facility.

FRANCHISEE will utilize Javelin Solutions for its site selection and lease negotiations representatives exclusively.

FRANCHISEE is solely responsible for paying all tax liabilities incurred in conjunction with opening and operating the facility and the Franchised Business.

10. TRAINING

FRANCHISEE shall designate up to two employees to attend initial training provided by FRANCHISOR. This training is conducted in San Jose, California, and must be completed prior to opening the Franchised Business. The cost for this training is included in your franchise fee. The training syllabus is included in the Operations Manual. You are required to attend a Red Cross First Aid and CPR training in your market prior to opening your gym. You will be required to submit a copy of a Red Cross CPR and First Aid training certificate for yourself and anyone who will work in your gym for your franchised business.

FRANCHISOR does not provide food, lodging, or transportation to the FRANCHISEE or its staff members during any training. All such costs are the responsibility of the FRANCHISEE.

11. OBLIGATIONS OF FRANCHISEE

In return for FRANCHISOR's grant of a Franchised Business and for other valuable consideration set forth hereon, receipt of which FRANCHISEE acknowledges, FRANCHISEE shall, in addition to complying with all other requirements as set forth in this Agreement, comply with the following terms and provisions:

(a) **Acknowledgement of Importance of System Standards:** FRANCHISEE understands and acknowledges that every detail of the System and the Franchised Business is essential to FRANCHISEE, FRANCHISOR, and other System franchisees in order to: (i) develop and maintain quality operating standards, (ii) increase the demand for the products and services sold by all franchisees operating under the System, and (iii) protect FRANCHISOR's reputation and goodwill. FRANCHISEE shall maintain FRANCHISOR's high standards with respect to facilities, services, products, and operations.

(b) **Compliance with Operations Manual:** To insure that the highest degree of quality and service is maintained, FRANCHISEE shall operate the Franchised Business in strict conformity with such methods, standards, and specifications as FRANCHISOR may from time to time prescribe in the Operations Manual or otherwise in writing. FRANCHISEE shall refrain from: (i) deviating from such standards, specifications, and procedures without FRANCHISOR's prior written consent, and (ii) otherwise operating in any manner which reflects adversely on the System.

(c) **Equipment and Supplies:** FRANCHISEE shall maintain in sufficient inventory, and use at all times, only such supplies and equipment as conform to FRANCHISOR's standards and specifications as set forth in the Operations Manual. FRANCHISEE may purchase from any source routine day-to-day items necessary to run any business, such as general office supplies and equipment. If FRANCHISEE desires to purchase products from other than approved suppliers, FRANCHISEE shall submit to FRANCHISOR a written request to approve the proposed supplier, together with such evidence of conformity with FRANCHISOR's specifications.

(d) **Goods and Services:** FRANCHISEE shall offer and sell only such goods and services as are set forth in the Operations Manual or as have been expressly approved in writing by FRANCHISOR. FRANCHISEE shall have the right to advertise and sell all products and services at any prices FRANCHISEE may determine, in its sole and absolute discretion, and shall in no way be bound by any price which may be recommended, suggested, or advertised by FRANCHISOR.

(e) **Maintenance and Appearance of Franchised Business:** FRANCHISEE shall, at its own expense, maintain the Franchised Business in a clean, orderly, and professional condition. FRANCHISEE shall comply with all terms of FRANCHISEE's lease of its premises.

(f) **Refurbishing of Franchised Business:** FRANCHISEE shall at its own expense make such alterations, additions, or modifications to the Franchised Business as FRANCHISOR may reasonably require to accommodate changes made by FRANCHISOR to the System.

(g) **Franchisee Employee Policy:** FRANCHISEE shall be solely responsible for maintaining a competent, conscientious, and trained staff. FRANCHISEE shall be solely responsible for recruiting, hiring, supervising, and discharging employees. FRANCHISEE shall be solely responsible for ensuring that all employees comply with all applicable terms of this Agreement, the Operations Manual, and all laws, codes, rules, and regulations. FRANCHISEE must utilize a properly qualified preschool teacher for its preschool program.

(h) **Compliance with Governmental Regulations:** FRANCHISEE shall be solely responsible for investigating, knowing, and complying with all applicable federal, state, and local laws, codes, rules, regulations, and procedures. This specifically includes all laws, rules; regulations, and interpretations relating to the preschool and daycare industry. FRANCHISOR reserves the right to modify the system should any federal, state, and local laws, codes, rules, regulations, procedure, or interpretation require such modification. FRANCHISEE agrees to pay for costs associated with modifying the Franchised Business.

12. ADVERTISING

FRANCHISOR and FRANCHISEE agree that they recognize 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.

FRANCHISEE shall be required to hold a Grand Opening in conjunction with opening your facility. FRANCHISEE shall spend between \$2,000.00 and \$5,000.00 in holding this Grand Opening. Following the Grand opening, FRANCHISEE will be required to spend at least 3.0% of their gross revenue per month or \$500.00, (whichever is greater) on local advertising. FRANCHISEE shall submit a monthly report to FRANCHISOR regarding FRANCHISEE's advertising activities, including copies of receipts for advertising expenses. All advertising and promotions by FRANCHISEE shall be in such media and of such type and format as FRANCHISOR may approve, shall be conducted in a dignified manner, and shall conform to such standards and requirements as set forth in the Operations Manual or otherwise in writing. FRANCHISEE shall not use any advertising or promotional plans or materials unless and until FRANCHISEE has received written approval from FRANCHISOR. If FRANCHISEE fails to make required advertising expenditures, FRANCHISOR may advertise on FRANCHISEE's behalf and the advertising costs incurred by FRANCHISOR (not to exceed the amounts set forth in this paragraph) shall be reimbursed by FRANCHISEE to FRANCHISOR.

FRANCHISEE shall, at its expense, and in accordance with any standards established in the Operations Manual, obtain listings in the white and yellow pages of the principal telephone directory or directories serving the Franchised Territory.

13. PROPRIETARY MARKS

(a) **Trademark Application(s):** The trademark Application(s) of FRANCHISOR are set forth in the Offering Circular, item 13. These trademark applications along with FRANCHISOR's trade names, logotypes, telephone numbers, and domain names used with the System are referred to in this Agreement as the "Proprietary Marks."

(b) **License:** Subject to the provisions of this Agreement, FRANCHISOR awards FRANCHISEE the right to use FRANCHISOR's Proprietary Marks at the Franchised Business. The right and license of the Proprietary Marks granted under this Agreement to FRANCHISEE is nonexclusive. FRANCHISOR will use and permit FRANCHISEE and other franchisees to use the Proprietary Marks only in accordance with the System and the standards and specifications attendant thereto which underlie the goodwill associated with and symbolized by the Proprietary Marks.

(c) **Disclaimer:** By not having a Principal Register federal registration for Athletic Nation, FRANCHISOR does not have certain presumptive legal rights granted by registration. It also is possible that the application could be denied. FRANCHISEE should understand that there always is a possibility there might be one or more businesses, similar to the business covered by this Agreement operating in or near the area(s) where FRANCHISEE may do business, using a name and/or trademarks similar to FRANCHISOR's and/or with superior rights to the name and/or trademarks. FRANCHISOR strongly suggests that FRANCHISEE research this possibility, using telephone directories, local filings and other means, before paying any money, signing any binding documents or making any binding commitments.

(d) **Duties Relating to Proprietary Marks:** FRANCHISEE must notify FRANCHISOR immediately of any apparent or actual infringement of, or challenge to FRANCHISEE's use of any Proprietary Marks that FRANCHISOR licenses to FRANCHISEE, or any claim by any person of any rights in the Proprietary Marks. FRANCHISEE agrees not to communicate with anyone other than FRANCHISOR's counsel, regarding any infringement, challenge or claim. FRANCHISOR has the right and discretion to take whatever action deemed appropriate and the right to control any litigation or other proceeding arising out of any infringement challenge or claim to any Proprietary Marks, including the right to direct any settlement of the claims. FRANCHISEE must sign any documents and give any assistance FRANCHISOR's attorneys believe are necessary or advisable in order to protect and maintain the Proprietary Marks.

(e) **Discontinued Use:** If it becomes advisable at any time in FRANCHISOR's judgment for FRANCHISEE to modify or discontinue the use of any of the Proprietary Marks or for FRANCHISEE to use one or more additional or substitute trademarks or service marks, FRANCHISEE will immediately comply (at FRANCHISEE's expense) with FRANCHISOR's directions to modify or otherwise discontinue the use of the Proprietary Marks, and/or use one or more additional or substitute trademarks or service

marks. FRANCHISOR will not have any liability or obligation to FRANCHISEE for modification, discontinuance or otherwise.

(f) **Identification of Independent Status.** FRANCHISEE shall identify itself as an independent franchisee-owner of the Franchised Business. The phrase "an independently owned business" shall appear on FRANCHISEE's invoices, order forms, receipts, business stationery, cards, contracts, and advertising, as well as at conspicuous locations at the Franchised Business. FRANCHISEE shall not use the Proprietary Marks as part of its legal name.

(g) **Ownership of Proprietary Marks.** FRANCHISOR is the sole owner of the Proprietary Marks and all rights related thereto. During the term of this Agreement and after its expiration termination, FRANCHISEE shall not directly or indirectly contest the validity of FRANCHISOR's ownership of the Proprietary Marks, nor take any other action which may tend to jeopardize FRANCHISOR's interest therein, or FRANCHISOR's right to use, and to license others to use, the Proprietary Marks.

FRANCHISEE'S use of the Proprietary Marks pursuant to this Agreement does not give FRANCHISEE any ownership interest or other interest in or to the Proprietary Marks other than the license granted by this Agreement. Any and all goodwill arising from FRANCHISEE's use of the Proprietary Marks shall inure solely and exclusively to the benefit of FRANCHISOR or its affiliate, and upon expiration or termination of this Agreement and the license herein granted, no monetary amount shall be assigned as attributable to any goodwill associated with FRANCHISEE's use.

14. CONFIDENTIALITY PROVISIONS

(a) **Operations Manual:** FRANCHISEE shall operate the Franchised Business in accordance with the standards, methods, policies, and procedures specified in the Operations Manual. The Operations Manual is confidential and FRANCHISEE shall maintain such information as secret and confidential. FRANCHISEE shall not at any time copy, duplicate, record, or otherwise reproduce any portion of the Operations Manual or provide it or any portion thereof to any unauthorized person. The Operations Manual shall at all times remain the sole property of FRANCHISOR and shall be kept in a secure place at the Franchised Business. FRANCHISEE shall ensure that its copy of the Operations Manual is kept current at all times, and in the event of any dispute as to the contents of the Operations Manual, the terms of the master copy of the Operations Manual maintained by FRANCHISOR shall be controlling.

(b) **Other Information:** FRANCHISEE shall not at any time communicate any confidential information, knowledge, or know-how concerning the Franchised Business to any person not authorized to receive such information.

(c) **Irreparable Harm from Disclosure of Confidential Information:** FRANCHISEE

acknowledges that failure to comply with the confidentiality provision set forth above will result in irreparable harm and injury to FRANCHISOR for which no adequate remedy at law is available. FRANCHISEE agrees that FRANCHISOR would be entitled to injunctive relief as a remedy for actual or threatened breaches of the confidentiality provisions set forth above.

15. ACCOUNTING AND RECORDS

(a) **Computer System:** FRANCHISEE shall utilize a computer system in the Franchised Business which meets the performance standards set forth in the Operations Manual. This includes Internet access. The specific computer system may be selected by FRANCHISEE as long as required criteria are met. You will use FranConnect as your Intranet provider.

(b) **Maintenance of Records:** FRANCHISEE shall maintain during the term of the Agreement and for a period five (5) years thereafter complete and accurate books, records, and accounts in accordance with generally accepted accounting principles.

(c) **Submission of Performance Reports:** FRANCHISEE shall, at its expense, provide FRANCHISOR with a monthly statement, on forms prescribed by FRANCHISOR, accurately reporting all revenue activity during the preceding month and such other data and information regarding operation of the Franchised Business as FRANCHISOR may require.

(d) **Audit of Franchisee Records:** FRANCHISOR or its designated agents shall have the right at all reasonable times to examine, copy, and/or audit at FRANCHISOR's expense, the books, records, and accounts of FRANCHISEE. If an audit reveals that any payments due to FRANCHISOR have been understated in any report to FRANCHISOR, then FRANCHISEE shall immediately pay to FRANCHISOR the amount understated upon demand, in addition to interest from the date such amount was due until paid, at the rate of eight percent (8%) per year, plus the costs of the audit. The cost of the audit will be borne by FRANCHISEE if underpayments are 3% or more of the actual payment due. FRANCHISOR reserves the right to implement a centralized, computer-based system of accounting. FRANCHISEE agrees to participate in this system when implemented. This will include ongoing modem connections and access between FRANCHISEE's computer and the centralized system maintained by FRANCHISOR.

16. INSURANCE

(a) **Franchisee's Insurance Obligations:** FRANCHISEE shall maintain at all times during the term of this Agreement, at FRANCHISEE's expense, an insurance policy or policies protecting FRANCHISEE, FRANCHISOR and its affiliates, and their respective partners, shareholders, directors, agents, and employees, against any demand or claim with respect to personal and bodily injury, death, professional liability, property damage, or any loss, liability, or expense whatsoever arising or occurring upon or in connection with the

operation of the Franchised Business. Such policy or policies shall: (a) be written by insurer(s) licensed and admitted to write coverage in the state in which the Franchised Business is located and with a rating of "A" or better as set forth in the most recent edition of Best's Key Rating Guide; (b) name FRANCHISOR and its partners, shareholders, directors, agents, and employees as additional insureds; and (c) comply with the requirements prescribed by FRANCHISOR in writing at the time such policies are obtained, and provide at least the types and minimum amounts of coverage specified. Such policies shall include, at the minimum, the following policies:

- (i) "All risk" property insurance, including business interruption insurance;
- (ii) Comprehensive general liability insurance in an amount of not less than \$3,000,000 combined single limit; and
- (iii) Workers' compensation insurance for statutory limits and employer's liability insurance in an amount not less than \$1,000,000;

(b) Waiver of Subrogation: In connection with any and all insurance required to be maintained by FRANCHISEE, FRANCHISEE and FRANCHISEE's insurers shall agree to waive their rights of subrogation against FRANCHISOR and FRANCHISEE shall provide evidence of such waiver.

(c) Franchisee's Insurance Obligation Not Affected By FRANCHISOR's Insurance: FRANCHISEE's obligation to obtain and maintain insurance shall not be limited in any way by reason of any insurance which may be maintained by FRANCHISOR, nor shall FRANCHISEE's performance of that obligation relieve it of liability under the indemnity provisions set forth in this Agreement.

(d) Certificates of Insurance: At least ten (10) days prior to the time any insurance is first required to be carried by FRANCHISEE, and thereafter at least thirty (30) days prior to the expiration of any policy, FRANCHISEE shall deliver to FRANCHISOR Certificates of Insurance evidencing the proper types and minimum amounts of required coverage. All Certificates shall expressly provide that no less than thirty (30) days' prior written notice shall be given FRANCHISOR in the event of material alteration to or cancellation or non-renewal of the coverages evidenced by such Certificates. Certificates evidencing the insurance required by this Agreement shall name FRANCHISOR, and each of its affiliates, partners, shareholders, directors, agents, and employees as additional insureds, and shall expressly provide that any interest of each shall not be affected by any breach by FRANCHISEE of any policy provisions for which such Certificates evidence coverage.

(e) Franchisor's Right to Secure Insurance on Behalf of Franchisee: Should FRANCHISEE, for any reason, fail to procure or maintain the insurance required by this

Agreement, FRANCHISOR shall have the right, but not the obligation, to immediately procure such insurance and to charge FRANCHISEE for the insurance obtained.

17. TRANSFER OF INTEREST

(a) Transfer by Franchisor: FRANCHISOR may transfer or assign all or any part of its rights or obligations under this Agreement to any person or entity. With respect to any assignment which results in the subsequent performance by the assignee of all of FRANCHISOR's obligations under this Agreement, the assignee shall expressly assume and agree to perform such obligations, and shall become solely responsible for all obligations of FRANCHISOR under this Agreement from the date of assignment. FRANCHISEE agrees that FRANCHISOR may sell its assets, the Proprietary Marks, or the System; may sell securities in a public offering or private placement; may merge, acquire other corporations, or be acquired by another corporation, and/or may undertake a refinancing, recapitalization, leveraged buy-out, or financial restructuring.

(b) Transfer by Franchisee: FRANCHISEE agrees that the rights and duties set forth in this Agreement are personal to FRANCHISEE. FRANCHISOR has granted this franchise in reliance on FRANCHISEE's skills, assets, and character. Accordingly, neither FRANCHISEE nor any successor nor any individual, partnership, corporation, or other legal entity which directly or indirectly owns any interest in FRANCHISEE shall sell, encumber, assign, transfer, convey, pledge, merge, or give away any direct or indirect interest in this Agreement, in FRANCHISEE, or in all or substantially all of the assets of the Franchised Business without the prior written consent of FRANCHISOR.

Any change in the control of FRANCHISEE shall be deemed a transfer for purposes of this Agreement. Any purported assignment or transfer not having the written consent of FRANCHISOR shall be null and void and shall constitute a material breach of this Agreement, for which FRANCHISOR may immediately terminate without opportunity to cure.

(c) Requirements for Transfer by Franchisee: FRANCHISOR shall require compliance with the following conditions in return for its consent to an assignment or transfer of FRANCHISEE as defined above.

(i) FRANCHISEE shall not be in default of any provision of this Agreement, any amendment of this Agreement or successor hereto, any lease agreement relevant to the Franchisee Business, any terms of the Operations Manual, or any other agreement between FRANCHISEE and FRANCHISOR or affiliates;

(ii) The transferor and its principals, if applicable, shall execute a general release,

in a form prescribed by FRANCHISOR, of any and all claims which the transferor may have or believes to have against FRANCHISOR and/or its affiliates and their respective officers, directors, agents and employees, whether the claims are known or unknown, which are based on, arise from or relate to this Agreement or the Franchised Business;

(iii) The transferee (and, if the transferee is other than an individual, such principals of the transferee as FRANCHISOR may request) shall execute the then current Franchise Agreement (and individual guarantees) then being offered to new franchisees;

(iv) The transferee shall successfully complete, at the transferee's expense all required initial training as described in the then current Franchise Agreement and/or Operations Manual;

(v) Except in the case of a transfer to a corporation or other business entity formed for the convenience of ownership, where the ownership of such corporation is in the same proportion as the ownership of FRANCHISEE before such transfer, a transfer fee of two thousand five hundred dollars (\$2,500), shall be paid by FRANCHISEE to FRANCHISOR;

(vi) FRANCHISEE shall remain liable for all of its obligations to FRANCHISOR and its affiliates which arose prior to the effective date of the transfer and shall execute any documents reasonably requested by FRANCHISOR to evidence such liability;

(vii) FRANCHISEE shall have paid all amounts due to FRANCHISOR; and

(viii) Compliance with such other conditions and terms as FRANCHISOR shall deem necessary and/or prudent to protect its interests under this Agreement.

(d) Right of First Refusal: If any party holding any direct or indirect interest in this Agreement, in FRANCHISEE, or in all or substantially all of the assets of the Franchised Business desires to accept any bona fide offer from a third party to purchase such interest, FRANCHISEE shall notify FRANCHISOR of such offer at least fifteen (15) days before the transfer is proposed to take place. FRANCHISEE also shall provide such information and documentation relating to the offer as FRANCHISOR may require. FRANCHISOR shall have the right and option, exercisable within fifteen (15) days after receipt of such written notification and background materials, to purchase FRANCHISEE's interest on the same terms and conditions as set forth in the offer.

(e) Transfer Upon Death or Incapacitation: Upon the death or permanent incapacity (mental or physical) of any person with an interest in this Agreement, in FRANCHISEE, or in all or substantially all of the assets of the Franchised Business, the executor, administrator, or personal representative of such person shall transfer such interest to a third party approved by FRANCHISOR within six (6) months after such death or mental incapacity. Such transfer shall be subject to the same conditions as set forth

above.

18. DEFAULT AND TERMINATION

(a) **Termination In the Event of Bankruptcy or Insolvency:** FRANCHISEE shall be in default under this Agreement, and all rights granted to FRANCHISEE herein shall automatically terminate without notice to FRANCHISEE, if FRANCHISEE becomes insolvent or makes a general assignment for the benefit of creditors; if a petition in bankruptcy is filed by FRANCHISEE or such a petition is filed against and not opposed by FRANCHISEE; if a bill in equity or other proceeding for the appointment of a receiver of FRANCHISEE or other custodian for, FRANCHISEE's business or assets is filed and consented to by FRANCHISEE; if a receiver or other custodian of FRANCHISEE's assets or property, or any part thereof, is appointed by any court of competent jurisdiction; if a final judgment remains unsatisfied or of record for thirty (30) days or longer; if FRANCHISEE is dissolved; if execution is levied against FRANCHISEE's business or property; or if suit to foreclose any lien or mortgage against the Franchised Location or assets is instituted against FRANCHISEE and not dismissed within thirty (30) days.

(b) **Termination with Notice and Without Opportunity to Cure:** FRANCHISEE shall be in default under this Agreement, and FRANCHISOR may, at its option, terminate this Agreement and all rights granted under this Agreement, without affording FRANCHISEE any opportunity' to cure the default, effective immediately upon receipt of notice by FRANCHISEE upon the occurrence of any of the following events:

(i) If FRANCHISEE at any time ceases to operate or otherwise abandons the Franchised Business without the consent of FRANCHISOR, or loses the right to possession of the Franchised Business, or otherwise forfeits the right to do or transact business in the jurisdiction where the Franchised Business located;

(ii) If FRANCHISEE (or a principal of FRANCHISEE), is convicted of a felony, a crime involving moral turpitude, or any other crime or offense that FRANCHISOR believes is reasonably likely to have an adverse effect on the System, the Proprietary Marks, the goodwill associated therewith, or FRANCHISOR's interest therein;

(iii) If any purported assignment or transfer of any direct or indirect interest in this Agreement, in FRANCHISEE, or in all or substantially all of the assets of the Franchised is made to any third party without FRANCHISOR's prior written consent;

(iv) If FRANCHISEE or any principal or employee of FRANCHISEE discloses confidential information provided to FRANCHISEE by FRANCHISOR;

(v) If FRANCHISEE or any principal of FRANCHISEE has made any material misrepresentations in connection with FRANCHISEE's application to FRANCHISOR for the franchise granted herein;

- (vi) If FRANCHISEE makes repeated, curable defaults under this Agreement;
- (vii) If FRANCHISEE loses any license or qualification required to operate the Franchised Business;
- (viii) If FRANCHISEE presents an imminent threat or danger to public health or safety;
- (ix) If FRANCHISEE knowingly maintains false books or records or submits any false reports or statements to FRANCHISOR;
- (x) If FRANCHISEE fails to obtain or maintain required insurance coverage;
- (xi) If, within ten (10) days after receipt of written notice from FRANCHISOR that any required payment is overdue, FRANCHISEE does not make such payment to FRANCHISOR or FRANCHISOR's affiliate;
- (xii) If FRANCHISEE (or any guarantor or principal of FRANCHISEE) if FRANCHISEE fails to comply with any or all of the terms of this Agreement, the Operations Manual, or any other agreement between FRANCHISOR, or its affiliates, and FRANCHISEE within ten (10) days after receipt of written notice from FRANCHISOR to do so.

(c) Termination With Notice and Opportunity to Cure: Except as otherwise provided this Agreement, FRANCHISEE shall have thirty (30) days after its receipt from FRANCHISOR of a written Notice of Default within which to remedy any default under this Agreement and to provide evidence thereof to FRANCHISOR. If any such default is not cured within the specified time, or such longer period as applicable law may require, FRANCHISOR shall have the right to terminate this Agreement by providing written Notice of Termination to FRANCHISEE.

(d) FRANCHISEE has no right to terminate this Agreement except as provided by law.

19. OBLIGATIONS OF FRANCHISEE UPON TERMINATION OR EXPIRATION

Upon termination or expiration of this Agreement, all rights granted under this Agreement to FRANCHISEE shall forthwith terminate, and:

(a) Cessation of Operations: FRANCHISEE shall immediately cease to operate the Franchised Business, and shall not thereafter, directly or indirectly, represent to the public or hold itself out as a present or former franchisee of FRANCHISOR.

(b) **Cessation of Use of Confidential Information and Proprietary Marks:** FRANCHISEE shall immediately and permanently cease to use, by advertising or in any other manner whatsoever, any confidential methods, procedures, and techniques associated with the System, and all Proprietary Marks and distinctive forms, slogans, signs, symbols, and devices associated with the System.

(c) **Cancellation of Assumed Name Registration:** FRANCHISEE shall take such action as may be necessary to cancel any fictitious business name on or equivalent registration obtained by FRANCHISEE which contains the Proprietary Marks; and FRANCHISEE shall furnish FRANCHISOR with evidence satisfactory to FRANCHISOR of compliance with this obligation within thirty (30) days after termination or expiration of this Agreement.

(d) **Return of Equipment:** FRANCHISEE shall immediately return to FRANCHISOR any equipment or supplies used in connection with the Franchised Business which are leased or owned by FRANCHISOR.

(e) **Payment of Monies Due:** FRANCHISEE shall promptly pay all sums owing to FRANCHISOR and its affiliates.

(f) **Return of Manual and Other Confidential Information:** FRANCHISEE shall immediately deliver to FRANCHISOR the Operations Manual and all other manuals, records, correspondence, files, and any instructions containing confidential information relating to the operation of the Franchised Business.

(g) **Compliance with Post Term Covenants:** All covenants, obligations, and agreements of FRANCHISEE which by their terms or by reasonable implication are to be performed, in whole or in part, after the termination or expiration of this Agreement, shall survive such termination or expiration.

20. COVENANTS

(a) **Non-Competition During Term of Agreement:** FRANCHISEE agrees that FRANCHISEE, and/or its principals, shall not directly or indirectly engage in a similar business during the term of this Agreement. Neither FRANCHISEE, nor its principals, may divert or attempt to divert any present or prospective customer of the Franchised Business to any competitor.

(b) **Non-Competition After Execution or Termination of Agreement:** Upon termination of this Agreement for any reason, and for a period of two (2) years thereafter, FRANCHISEE and its principals shall not, without FRANCHISOR's prior written consent, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, or legal entity, own, maintain, advise, operate, engage in, or have any interest in or relationship or association with a business which: (a) offers products or services which are the

same as or similar to the products and services offered by the Franchised Business, and (b) is, or is intended to be, located within five (5) miles of the Franchised Territory. This subsection shall not apply to ownership by FRANCHISEE of a less than five percent (5%) beneficial interest in the outstanding equity securities of any company registered under the Securities Act of 1933 or the Securities Exchange Act of 1934.

21. INDEPENDENT CONTRACTOR

(a) **No Fiduciary Relationship:** This Agreement does not create a fiduciary relationship between the parties. FRANCHISEE shall be an independent contractor and nothing in this Agreement is intended to constitute or appoint either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose.

(b) **Independent Contractor Status:** FRANCHISEE agrees that it is not authorized to make any contract, agreement, warranty, or representation on FRANCHISOR's behalf, or to incur any debt or other obligations in FRANCHISOR's name; and that FRANCHISOR shall in no event assume liability for, or be deemed liable under this Agreement as a result of, any such action; nor shall FRANCHISOR be liable by reason of any act or omission of FRANCHISEE in its conduct of the Franchised Business or for any claim or judgment arising therefrom.

22. INDEMNIFICATION

FRANCHISEE shall indemnify and hold harmless to the fullest extent permitted by law, FRANCHISOR, its affiliates and their respective directors, officers, employees, shareholders, and agents, from any and all losses and expenses (as hereinafter defined) incurred in connection with any litigation or other form of adjudicatory procedure, claim, demand, investigation, or formal or informal inquiry (regardless of whether same is reduced to judgment) or any settlement thereof which arises directly or indirectly from, as a result of, or in connection with FRANCHISEE's operation of the Franchised Business.

23. APPROVALS AND WAIVERS

(a) **Obtaining Approvals:** Whenever this Agreement requires the prior approval or consent of FRANCHISOR, FRANCHISEE shall make a timely written request to FRANCHISOR therefor, and such approval or consent must be obtained in writing. FRANCHISOR assumes no liability or obligation to FRANCHISEE, by providing any waiver, approval, consent, or suggestion to FRANCHISEE in connection with this Agreement, or by reason of any neglect, delay, or denial of any request therefor.

(b) **No Waiver:** No delay, waiver, omission, or forbearance on the part of FRANCHISOR to exercise any right, option, duty, or power arising out of any breach or default by FRANCHISEE of any of the terms this Agreement shall constitute a waiver by

FRANCHISOR to enforce any such right, option, or power as against FRANCHISEE upon a subsequent breach or default by FRANCHISEE. Subsequent acceptance by FRANCHISOR of any payments due to it under this Agreement shall not be deemed to be a waiver by FRANCHISOR of any preceding or succeeding breach by FRANCHISEE of any terms, covenants, or conditions of this Agreement.

24. ENTIRE AGREEMENT, CHANGES, SEVERABILITY, AND CONSTRUCTION

(a) Entire Agreement: This Agreement constitutes the entire and complete Agreement between FRANCHISOR and FRANCHISEE concerning the subject matter herein, and supersedes all prior agreements. FRANCHISEE acknowledges that it is entering into this Agreement as a result of its own independent investigation of the business franchised herein and not as a result of any representation made by FRANCHISOR or persons associated with FRANCHISOR, or other franchisees, which are contrary to the terms herein or which are contrary to the terms of the Franchise Offering Circular.

(b) Changes: Except for those changes permitted under this Agreement to be made unilaterally by FRANCHISOR, no amendment, change, or variation from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

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

(d) Construction: Neither this Agreement or any uncertainty or ambiguity in this Agreement shall be construed or resolved against the drafter of this Agreement, whether under any rule of construction or otherwise.

25. DISPUTE RESOLUTION

(a) Choice of Law: This Agreement takes effect upon its acceptance and execution by FRANCHISOR in California. The parties agree that this Agreement shall be interpreted and construed under the laws of California. In the event of any conflict of law, the laws of California shall prevail, without regard to the application of California conflict of law rules. However, if the jurisdiction in which the FRANCHISEE is located has non-waivable

statutes, then they shall apply.

(b) **Venue:** The parties agree that this Agreement was negotiated in, accepted in, and was to be performed in Santa Clara County, California. The parties agree that Santa Clara County, California, would be the most convenient location to resolve disputes either through arbitration or litigation.

(c) **Nonexclusivity of Remedy:** No right or remedy conferred upon or reserved to FRANCHISOR or FRANCHISEE by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

(d) **Binding Arbitration:** Except as set forth in the following subsection, FRANCHISOR and FRANCHISEE agree that any dispute arising under or related to this Agreement shall be submitted to binding arbitration at the option of either party. Such arbitration shall be conducted in accordance with the rules of the American Arbitration Association using a single arbitrator and judgment shall be entered upon the award of the arbitrator in a court having proper jurisdiction. By agreeing to binding arbitration, the parties are giving up any rights they may possess to have the dispute litigated in court, to have a jury trial, or to appeal (with limited exceptions). Other rights are affected as well. FRANCHISEE is advised to discuss the arbitration process with a lawyer.

(e) **Right to Injunctive Relief:** Nothing herein contained shall bar FRANCHISOR from seeking injunctive relief in a court of competent jurisdiction without the posting of any bond or security, to obtain the entry of a temporary, preliminary, and/or permanent injunction against FRANCHISEE.

26. ACKNOWLEDGMENTS

(a) **Recognition of Business Risks:** FRANCHISEE acknowledges that it has conducted an independent investigation of the proposed franchise, and recognizes that the business venture contemplated by this Agreement involves business risks and that its success will be largely dependent upon the ability of FRANCHISEE as an independent business person. FRANCHISOR expressly disclaims the making of, and FRANCHISEE acknowledges that it has not received, any warranty or guarantee, express or implied, as to the potential sales, income, profits, or success of the business venture contemplated by this Agreement.

(b) **No Other Representations:** FRANCHISEE acknowledges that it has received a copy of the complete Franchise Offering Circular containing a copy of this Franchise Agreement at least ten (10) business days prior to the date on which this Agreement was executed. FRANCHISEE further acknowledges that FRANCHISEE has received a copy of this Agreement at least five (5) business days prior to the date on which this Agreement was executed. FRANCHISEE acknowledges and agrees that FRANCHISOR has made no promises, representations, warranties or assurances to FRANCHISEE which are inconsistent

with the terms of this Agreement or FRANCHISOR's Uniform Franchise Offering Circular, concerning the profitability or likelihood of success of the Franchised Business, that FRANCHISEE has been informed by FRANCHISOR that there can be no guaranty of success in the franchised business and that FRANCHISEE's business ability and aptitude is primary in determining his success.

(c) Review of Franchise Offering Material: FRANCHISEE acknowledges that it has read and understood this Agreement and that FRANCHISOR has accorded FRANCHISEE ample time and opportunity to consult with advisors and counsel of FRANCHISEE's own choosing about the potential benefits and risks of entering into this Agreement.

(d) Atypical Arrangements: FRANCHISEE acknowledges and agrees that FRANCHISOR may modify the offer of its franchises to other franchisees in any manner and at any time, which offers have or may have terms, conditions, and obligations which differ from the terms, conditions, and obligations in this Agreement.

FRANCHISEE further acknowledges and agrees that FRANCHISOR has made no warranty or representation that all Franchise Agreements previously issued or issued after this Franchise Agreement by FRANCHISOR do or will contain terms substantially similar to those contained in this Franchise Agreement. FRANCHISOR may, in its reasonable business judgment, waive or modify comparable provisions of other Franchise Agreements previously executed or executed after the date of this Franchise Agreement.

(e) Counterparts: This Agreement may be executed by the parties simultaneously in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Signatures transmitted electronically or by facsimile will be deemed original signatures; provided that the party delivering such electronic or facsimile signature shall deliver to the other an original signature page within twenty-four (24) hours after transmission.

27. BUSINESS ENTITY FRANCHISEES

If the FRANCHISEE or any successor is a partnership, corporation, limited liability company, or other business entity, or if the franchise granted hereunder is assigned to a partnership, corporation, limited liability company, or other business entity as set forth in this Agreement, then at least two officers, directors, and/or managers of the business entity shall execute a written agreement with the FRANCHISOR in the form required by the FRANCHISOR individually undertaking to be bound, jointly and severally, by all of the terms of this Agreement. If the business entity has only one officer, director, or manager, then that person shall undertake to be bound, jointly and severally, by all of the terms of this Agreement.

The articles or partnership, partnership agreement, by-laws, operating agreement, share certificates, ownership interest certificate and other appropriate organizational documents shall recite that the issuance and transfer of any interest in the FRANCHISEE

business entity is restricted by the terms of this Agreement. Copies of these documents shall be furnished to the FRANCHISOR.

FRANCHISEE:

Name of Entity: _____

Print Name: _____

By: _____
(Signature)

Title: _____

Date: _____

FRANCHISOR: ATHLETIC NATION FRANCHISE CORP.

By: _____
(Signature)

Title: _____

Date: _____