

**EXHIBIT F**

**FRANCHISE OFFERING CIRCULAR  
AREA DEVELOPMENT AGENT AGREEMENT**

**NEW YORK NEW YORK FRANCHISING, INC.**  
**AREA DEVELOPMENT AGENT AGREEMENT**

As of \_\_\_\_\_, 2005 NEW YORK NY FRESH DELI FRANCHISE, INC., (the "Company") hereby reserves the appointment of:

whose address and telephone number are:

**EMAIL:**

To become an Independent Area Development Agent (hereinafter "Agent") under the following terms and conditions as outlined below.

**RECITALS**

- A. The Company is the owner of proprietary and other rights and interests in the service marks, trademarks, and trade names and goodwill used in its business including the trade name and service mark, NEW YORK SUBS FRESH DELI, NEW YORK NY FRESH DELI, and NEW YORK NEW YORK FRESH DELI (hereinafter "NEW YORK NY FRESH DELI").
- B. The Company franchises others to operate restaurants under the trade name and service mark NEW YORK NY FRESH DELI using certain procedures, techniques, business methods, business forms and business policies it has developed. The Company has also developed a body of knowledge pertaining to the establishment and operation of its restaurant concept.
- C. The Agent understands that information received from the Company or from any of its officers, employees, agents, franchisees, or area development agents is confidential and has been developed with a great deal of effort and expense. The Agent acknowledges that this information is being made available to him so that he may more effectively sell franchises and develop and service the Company's franchised restaurants. This information and the related materials shall remain the property solely of the Company and be promptly returned upon request. The Company has appointed and will appoint others as development agents to help the Company to develop and service the Company's franchised restaurants.
- D. The Agent acknowledges that he understands his success depends primarily upon his efforts and that neither the Company nor any of its agents or representatives have made by oral, written or visual representations or projections of actual or potential sales, earnings, income, net or gross profits. The Agent understands that he may lose money or fail.
- E. The Agent desires to act as an independent representative of the Company and work as an independent contractor to recruit new franchisees as well as develop and service the Company's restaurants in the following Area (hereinafter called the "Area"):

The number of residents in the Area based upon the 2000 US Census is \_\_\_\_\_.

- F. The fee payable to the Company for this Area or Appointment as an Area Development Agent and for attendance at the Company's Executive Training Program for Independent Agents of the Company is as follows:

The Area Fee, which includes the training program and associated materials, is based upon the population in the desired area with the minimum Fee being Forty Nine Thousand Five Hundred Dollars (\$49,500) for an area comprising 1.5 Million in population within the area. The area may be larger if the Area Development Agent desires and is approved by the Company for an increased area, if so the Area fee will be increased by the rate of .025 cents per person over the initial 1.5 Million population.

The total fee under this Agreement is \$\_\_\_\_\_. The fee is payable prior to attendance at training and is considered earned when paid. This fee is non-refundable.

Extended Basic Executive Training for Area Development Agents is conducted at the corporate headquarters of the Company in Mesa, Arizona and covers the major aspects of operating an independent brokerage business as an Agent for the Company and its NEW YORK NY FRESH DELI Franchise Program as developed by the Company. The training is given over a four (4) day period and is separate from the Company's Franchise Training Sessions, but is usually synchronized with company franchisee training sessions. Expenses incurred by the Agent Trainee to attend this program are to be borne by the Trainee.

### AGREEMENT

Acknowledging the above, and in consideration for their mutual promises, the parties hereto agree as follows:

1. The Area Development Agent agrees to:

A. Develop and service the Company's franchised restaurants within the Agent's Area. This responsibility shall include, but not be limited to, the responsibility for the initial recruitment and sale of new franchisees, providing the assistance necessary for the development of every franchisee's restaurant in the Agent's Territory, and provide the required ongoing services for the Company's franchised restaurants as follows:

- (i) At Agents own expense, advertising for prospects for franchises, which may include newspaper and magazine advertising expenditures, show fees, group meeting costs and the like, for franchises; providing all prospects with information about the Company on a timely basis in conformity with the policies of the Company as established and modified from time to time and in accordance with Federal, State and Local laws and regulations.
- (ii) The Agent is directly responsible for the opening of each franchise in the Area by providing, in conjunction with the Company, site selection assistance, lease negotiation advice, assisting with equipment purchases, and construction advice.
- (iii) Be responsible for performing monthly Compliance/Business visits to each NEW YORK NY FRESH DELI restaurant in Agent's area and for providing consultation and business advice to franchisees regarding their advertising, employee training, and other general business practices of each franchisee in Agent's Area. The Agent shall implement and bear the responsibility for upholding the provisions of the NEW YORK NY FRESH DELI franchise system to be followed by the franchisees in the Agent's Area.

B. Assist the Company in the enforcement of all provisions of any franchise agreement for any NEW YORK NY FRESH DELI established or to be established in his Area, including but not limited to, the collection of monies due the Company.

Presently, NEW YORK NY FRESH DELI restaurants are open or leased in the area at the following locations: \_\_\_\_\_.

C. During the initial five years of this Agreement the Development Agent shall develop (have open for business) in addition to any presently open units \_\_\_\_\_ NEW YORK NY FRESH DELI restaurants in the Area according to the following schedule:

Total Required Number Of Units to be Operating, excluding any Existing Units, as follows:

Year One	_____	by	_____.
Year Two	_____	by	_____.
Year Three	_____	by	_____.
Year Four	_____	by	_____.
Year Five	_____	by	_____.

After the initial five year development period the total number of NEW YORK NY FRESH DELI restaurants in the area must increase at the minimum rate of ten percent (10%) thereafter each year based upon the operating units open at the end of the prior year. This minimum percentage of increase must be maintained for the duration of this Agreement. Maximum penetration of an area is based upon one unit per Thirty Five Thousand population.

A NEW YORK NY FRESH DELI unit shall be considered an Operating Unit only if it is an open and functioning restaurant and located within the Area, and complying with the terms of its franchise agreement. If the Development Agent is ahead of the above Development Schedule, the Company shall pay the Agent \$100 per month for each Operating Unit for which he is ahead of the Development Schedule. If the Development Agent is behind the Development Schedule, the Company shall reduce any monies due to the Development Agent by \$100 per month for each Operating Unit for which the Development Agent is behind in the Schedule. The Development Agent understands that it will be a breach of the Agreement if the Agent falls behind the Development Schedule.

D. The Agent understands that the Agent is responsible for the payment of any personal expenses in connection with the promotion and the solicitation of franchise sales and in the general operation of the Development Agency and that the Agent is at no time an employee, partner or joint venturer of the Company for any purpose and that the relationship of Agent with the Company is that of independent contractor.

E. The Agent will notify the Company in writing of any infringement of any service mark, trademark or trade name of the Company, or non-compliance by any NEW YORK NY FRESH DELI franchise with any standards set forth in the franchise agreement, the Operating Manual, or in other operational memoranda issued by the Company, or the use of bad faith in carrying out the terms of the franchise.

F. The Agent agrees to install and maintain a minimum of one business telephone line dedicated to his Development Agency business, provide a facsimile machine, computer and printer in order to conduct the business outlined in this Agreement. The Agent agrees to operate his Agency Business in compliance with applicable laws and governmental regulations. The Agent will obtain at his expense, and keep in force, any permits, licenses or other consents required for his business. In addition, the Agent shall operate his business in accordance with the Company's Manuals and other

written criteria, which may be amended from time to time as a result of experience, changes in the law, or changes in the marketplace.

G. The Agent agrees to devote his best efforts to the development of NEW YORK NY FRESH DELI restaurants in the Area. During, and for Two (2) years after the termination or transfer of this Agreement, the Agent shall not own, engage in, or participate directly or indirectly in any restaurant business similar to the NEW YORK NY FRESH DELI system other than NEW YORK NY FRESH DELI franchised restaurants when such competing businesses are located within any active DA territory of the Company or within ten (10) miles of any NEW YORK NY FRESH DELI location whether franchised or Company operated.

H. The Agent shall be responsible for coordinating, overseeing, and assisting with the overall development of each restaurant established in his Area as per the standards of the Company during the term of this agreement. All restaurants must meet the Company's quality standards as per design and development and must not vary from Company design or development criteria.

I. The Agent or his formally trained representative shall visit every NEW YORK NY FRESH DELI restaurant in Agent's territory a minimum of once per month in order do a business and compliance review of the restaurant., and all such reviews shall on the forms provided by the Company. The Agent will report to the Company immediately whenever the services or products sold, the equipment utilized, or the appearance of the restaurant are not in compliance with the standards as specified in the Operating Manuals or in other publications of the Company.

J. Agent may accept payments from franchisees and prospective franchisees only if the payment is made payable directly to the Company and sent to the Company immediately upon receipt.

K. The Agent agrees to maintain his primary residence within the Area, or a contiguous area as agreed to between the Company and Agent, and reside in the Area at least 320 days each year excepting normal out of area trips and vacations.

L. The Agent shall refrain from soliciting or accepting any kickback or payment or share in the profits from any third party vendor on any sales made to the Company's franchisees. To engage in this activity will result in immediate termination of the Agent upon written notice by the Company and the forfeiture of any monies or commissions due.

M. The Agent shall conduct his business in such a way as to maintain a high degree of satisfaction and trust in the Agent by the Company's franchise owners in Agent's area.

N. The Agent understands that it will be a breach of this Agreement if he becomes insolvent and unable to perform under this Agreement, or consents to the appointment of a receiver or other custodian of the Agents business, or is convicted of (or pleads guilty to, or pleads no contest to) a felony.

O. Agent shall be responsible for the initial "in-store" or "on-site" training program for each new franchised or transferred (a transferred store is one that has been sold to a different Franchisee) store within the Agent's Area. The training program delivered will, without exception, follow the company's training guidelines as per company training policies, which may be amended from time-to-time. The Agent is also responsible for the submission of opening forms and photographs of each NEW YORK NY FRESH DELI restaurant that opens in Agent's Area prior to receiving any outstanding final initial sales or royalty commissions.

P. The Agent agrees to attend, at his expense one (1) required Company meeting for Development Agents during each calendar year. It is not required that all Development Agent partners, if any, attend all Company meetings, but as least one partner must attend all of each

meeting and participate in all sessions. The Development Agent will pay the Company \$1,000 for each required meeting that he or one of his partners does not attend.

Q. The Agent agrees that it is the Agents responsibility to assist the Company to reopen or to permanently close NEW YORK NY FRESH DELI restaurants in the Area. The Company, at its own option, will pay all necessary out-of-pocket costs required to reopen closed NEW YORK NY FRESH DELI restaurants. The Agent will provide his efforts, without charge, to oversee the reopening of the restaurant and its continued operation as a company or Agent restaurant until the restaurant is sold. If the restaurant is to be abandoned, the Agent shall secure all equipment which may be owned by the company, de-identify the restaurant, and negotiate a settlement of the lease, if required.

3. As of January 1, 2006 the Initial Franchise Fee for a single store franchise is Seventeen Thousand Five Hundred Dollars (\$17,500) the AGENT COMMISSION FEES shall be as follows: The Company agrees to:

- A. Pay the Agent \$7,500 of each initial \$17,500 franchise fee received from franchisees as follows:
- i. The full \$7,500 will be paid upon the sale of a franchise and delivery to the Company of the required forms and fee. Commissions earned by the Agent will be based upon Initial Franchise Fees collected and shall be paid upon receipt of "good funds" for such fees, and upon receipt to the proper documents that are required by the Company. Payments made by Cashiers Checks or Certified Funds for new franchise sales and received by Friday of each week will be paid to the Agent by the following Friday. Regular checks, business or personal, received will require ten (10) business days prior to payment of commissions.
  - ii. For a reduced Initial Franchise Fees paid, i.e. Fifteen Thousand Dollar (\$15,000) Fee the Agent will receive 50% (\$7,500) of the Initial Fee upon receipt and approval by the Company. The fee must be paid as outlined in Paragraph i above.
  - iii. It is understood that the Agent is still obligated to perform the required pre-opening and opening duties as outlined in the Development Agent Agreement.
  - iv. In the event that a new franchisee is recruited and sold outside of the Agents Area by another Agent or the Company, and this franchisee develops the new restaurant within Agents Area then, the selling Development Agent or the Company will receive \$5,000 of the Initial \$17,500 Franchise Fee.. The Agent in the Area where the franchised restaurant actually opens will receive the balance of the commission (the remaining \$2,000 of the commission upon the opening of the franchise, in that it is the Agent's responsibility to assist the new franchisee in the opening of the restaurant.

B. Pay the Agent thirty percent (30%) of any Transfer Fees collected within the Area i.e. transfers that take place in the Agent's Area. The Agent that does the training receives the commission no matter where the buyer comes from. The commission is payable upon completion of the transfer, payment of the proper fee and the required training by the Agent of the Transferee.

Commissions earned by the Agent will be based upon Initial Franchise Fees or Transfer Fees collected and shall be paid upon receipt of "good funds" for such fees, and upon receipt to the proper documents that are required by the Company. Payments made by Cashiers Checks or Certified Funds for new franchise sales and received by Friday of each week will be paid to the Agent by the following Friday. Regular checks, business or personal, received will require ten (10) business days prior to payment of commissions.

C. The Royalties payable under the Company's Franchise Agreement are six percent (6%) of Net Sales. The Agent shall also receive as earned commissions .4166 percent of the paid Royalties (which equals two and one half percent (2.5%) of gross sales as defined in the NEW YORK NY FRESH DELI Franchise Agreement and paid by the franchised NEW YORK NY FRESH DELI restaurants within the Agent's Area, which are reported and remitted to the Company by each restaurant as specified in the franchise agreement. Royalty commissions are also paid on Company owned or operated stores within the Area, and the Agent will be responsible to service such restaurants, if any. If Agent fails to perform the required once per month inspection visit, the Agent will not be paid the royalties for the specific store not visited that month. In order to receive the royalty commissions the required monthly compliance report must be received by the Company no later than the last day of the month in which the compliance visits are to be made. If the Company does not receive the required compliance reports as outlined, the Development Agent will forfeit the monthly commission, without exception.

The Agent shall be paid the percentage of ROYALTIES (as outlined in 3, C above) which are timely paid as specified in the franchise agreement by franchisees who are open and operating in Agents area and received by the Company. Earned royalty commissions will be paid on the 10<sup>th</sup> of each month for payments received by the Company by the last day of the month prior to the month in which the commissions are payable.

In the event that a Franchisee in the Agent's Area does not timely submit his payment for Royalties to the Company, the Agent will be advised of the "failure to timely pay". The Agent shall be responsible for collecting the past due Royalties by the 30<sup>th</sup> of the month in which the Agent is notified of any past due Royalties. If the Agent has not secured the payment or an agreement to pay which is honored by the Franchisee within the allotted time, no commissions will be due or payable to the Agent for the specified Royalties if paid at a later date and if collected by the Company.

If an open and operating restaurant in the Area is not in substantial compliance with the standards in the franchise agreement or the Operating Manual, i.e. operating procedures, proper and required food supplies and food items offered, required décor, filing and payment of royalties as specified, then the payment to the Agent of royalty commissions related to that restaurant as calculated above will be reduced by fifty percent (50%) until such time as the franchised restaurant comes in substantial compliance.

D. In the event that the Agent desires and requests in writing that Company personnel assist the Agent in recruiting and selling new Franchisees in Agent's Area, and the Company agrees in writing to assist Agent in his sales and recruitment efforts, then in that event any sales so completed by Company personnel, the Company shall receive as earned commission eighty percent (80%) of the DA sales commission for such sales, if any. Additionally, in the event that the Company does agree to sell for the Agent, the Agent understands that his other responsibilities remain the same, including advertising and promoting as outlined in Item 1, A, (i), (ii), and (iii) above.

E. The Company will make available the initial training program to approved franchisees, it being understood that the Agent is responsible for the in store initial training as outlined herein, except that the Company will assist the Agent during his first "in store" training by having a Company operations specialist attend.

F. The Company will make available to the Agent franchise sales brochures and literature, disclosure documents, and other related materials in reasonable quantities. If the Agent requests literature beyond the norm, the Company will make such materials available to the Agent at its laid-in cost per marketing packet which is currently \$12.00 each plus postage. As long as the Agent is meeting sales goal the, mailing costs, expenses and postage costs for literature mailed to Agent's Territory will be borne by the Company, otherwise the Agent will be billed for the literature and mailing costs. If the Agent chooses to direct mail literature or materials within his Area, Agent agrees that the costs of mailing such literature and postage are his personal expense.

G. The Company will provide to the Agent without charge, prospect inquiries that are received by the Company from the Company's franchise advertising activities or what ever the source, if any, that are in Agents Area. The Agent agrees to immediately contact any such prospect inquiries received and report to the Company his activities and results for any such prospect inquiries. The Company provides forms for such reporting. If the Agent consistently fails to follow-up on any such prospect inquiries provide by the Company or fails to provide the reports required, then the Company shall follow-up on the inquires in the Agent's Area and if sales recruitments are made by the Company it shall receive the commission percentage outlined in Paragraph 3, D above. In this instance the Company shall not be required to receive a written request from the Agent, but the Company shall notify the Agent in writing if it intends to follow-up on the inquiries.

4. The parties also agree as follows:

A. This agreement shall commence upon the date on which the Agreement is executed for an initial period of five (5) years. The Agent has three (3) option periods of five (5) years each for a possible term of twenty (20) years. Options may be added upon meeting the development schedules outlined in the first five (5) years of 2, D above. When the development schedule outlined in the first five (5) year is met, add five (5) years to the term; when the development schedule for the second five (5) year term is met, add five (5) years to the term, and so forth up to twenty (20) years.

B. The Agent shall have no right to use the name NEW YORK NY FRESH DELI or NEW YORK NY FRESH DELI FRANCHISE, INC., NEW YORK NEW YORK FRESH DELI, OR NEW YORK SUBS FRESH DELI in Agent's corporation or business name, nor will Agent attempt to file any of our trade names in his state. Agent will also refrain from any use of the Trademarks which would serve to make the Company liable for any federal, state or local taxes, or other contribution or expense of any kind. The Agent agrees to consult with the Company prior to using its name or names in any publication or listing of any kind.

C.. The Company agrees that it shall maintain all franchise documents or registrations required by State or Federal Laws or Acts where the Company operates and the Agent agrees that he will provide the necessary and correct personal information to the Company (on the forms provided) for such registrations.

D. If Company personnel are required to travel to the Agents territory to perform duties for the Agent, or in the event Agent fails to provide services as required in this Agreement, then the Agent will pay the Company its reasonable fees and travel expenses to perform the Agents duties, such reasonable fees to be \$150 per day for a company representative, plus \$150 per diem travel expense per day and round trip air fare or \$ .28 cents per mile if the travel is by automobile. Additionally, the Agent will forfeit the commissions he would have received for providing the services required. The Company may charge these expenses directly against the Agents commission accounts or the Agent directly.

E. The Agent may terminate his/her association with the Company and this Agreement at any time and upon thirty (30) day written notice to the Company.

F. In the event that Agent is in material breach of this Agreement, such material breaches to include the closing of Agent's restaurant if Agent operates a restaurant; failure to pay required royalties for Agent owned restaurants; failure to make the required store visitations-inspections; failure to provide opening services and consultation to franchisees in the Area as outlined in this Agreement; failure to provide the on-site training; failure to maintain company polices outlined herein; or failure to meet goals within specified parameters, then the Company may notify Agent regarding any such violation and, after providing a reasonable time to cure the violation(s), which reasonable time shall be thirty (30) days. the Company will have the right to terminate the Area Development Agents agreement with the Company without further notice. Upon the actual date of



such termination, the Company shall not be obligated to make any further payments to the Agent except those actually earned through the date of termination by the providing of services to Franchisees in the Area as outlined in the Agreement.

G. The Laws of the State of Arizona shall govern the interpretation of and the performance under, this Development Agent Agreement.

H. Any controversy or claim arising from, or as a result of, this Agreement shall be settled by arbitration in accordance with Arizona law in The City of Phoenix, Maricopa County, State of Arizona, in accordance with the Commercial Arbitration Rules and Regulations of the American Arbitration Association and judgment upon an award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The commencement of arbitration proceedings by an aggrieved party to settle disputes arising out of or relating to this Agreement is a condition precedent to the commencement of legal action by either party. Except as provided in this Agreement, each party shall be responsible for its own costs and expenses in conjunction with the arbitration proceeding. If the Area Development Agent commences action in any court prior to an arbitrator's final decision on the controversy or claim, then the Agent shall be responsible for all costs and expenses incurred by the Company and the Agent for the arbitration and the court proceedings.

I. The Agent acknowledges that if he discloses any aspect of the franchise system or the Company's Operating Manuals that it could substantially harm the company, himself, franchisees, and other agents of the Company. The Agent agrees that he will not during or after the term of this Agreement disclose any documents or materials of the franchise system, including trade secrets and formulas, to any person, corporation or other entity. If the Agent materially violates this provision or threatens to do so, the Company shall be entitled to an injunction restraining Agent or his partners from activities constituting a breach of this Agreement and this Agreement with the Agent will be terminated immediately without notice. Nothing stated herein shall be construed as prohibiting the Company from pursuing any other remedies available to it for any such breach or threatened breach, including the recovery of money damages and legal fees.

J. The Agent may not transfer this Agreement without the prior written consent of the Company. Upon consent, the Agent may assign this Agreement, under the following conditions:

- (i) The assignee meets the Company's financial, educational and other then current requirements for its new Area Development Agents;
- (ii) The assignee attends the required training class; (c) the Agent trains the assignee in the Area for a minimum of thirty (30) days prior to the transfer and for another sixty (60) days after the transfer, and;
- (iii) The Agent pays the Company a transfer fee of \$25,000.00 which transfer fee is not commissionable to either the assignor or assignee. The transfer fee is non-negotiable.

K. The Agent may assign his rights under this Agreement to a corporation without being relieved of any personal liability hereunder, provided;

- (i) The corporation name does not include the words NEW YORK NY FRESH DELI or NEW YORK NEW YORK FRESH DELI, NEW YORK SUBS FRESH DELI or NEW YORK NY FRESH DELI FRANCHISE, INC. and its activities are confined exclusively to the Agent's responsibilities under this Agreement;
- (ii) The Agent is, and, at all times remains the owner of the controlling stock interest of the corporation, and;

- (iii) In addition to the personal guarantee of the Agent, the corporation agrees in writing to assume all of the Agents obligations hereunder and all stockholders of the corporation jointly and severally guarantee in writing the full and prompt payment and performance by the corporation of all its obligations to the Company pursuant to the assignment.

L. The Agent is, and shall, be an independent contractor, is not an employee or legal agent of the Company, and understands and agrees that this Area Development Agency Agreement is not a franchise. The Agent is responsible for payment of his own state and federal income taxes. Under no circumstances shall the Company be liable for any act (including specifically but not by way of limitation, any violation by the Agent of the franchise sales and disclosure laws), omission, debt, or other obligation of the Agent, and the Agent shall indemnify and hold the Company harmless from any such claim and cost of defending against such claims arising directly or indirectly in connection with the activities of the Agent and the Company will also hold the Agent harmless in the same manner as outlined in this item 14, M.

M. In the event that the Agent, or the Company, withholds any monies due under this Agreement in the Absence of a Court Order, or Order of an Arbitrator selected in accordance with 4, I above permitting the withholding of monies, the prevailing party shall be reimbursed by the other party for all costs and expenses that were incurred in pursuing the collection of the withheld monies. These costs and expenses shall include, but not limited to, arbitration fees, court costs, fees for in-house or outside attorneys, management preparation time, witness fees, and travel expenses.

N. The Company, for the purpose of enhancing the value and good will of its products, trademarks and trade name, and to be certain the public may rely upon said products, trademarks and trade name as identifying quality products and services may modify certain aspects of its business, including, but not limited to, franchise agreements, leases and subleases, operating manuals, procedures and restaurant design.

O. This Agreement may be transferred and assigned by the Company and shall inure to the benefit of its successors and assigns.

P. The Development Agent shall maintain the accounts of any NEW YORK NY FRESH DELI restaurants owned wholly or partially by him in perfect status (no unpaid balances) with the Company. The Company shall have the right to offset and thereby reduce any monies owed to the Agent, by any obligation of the Agent to the Company, including without limitation monies owed due to the operation of any restaurant owned wholly or partially by the Agent. If the Development Agent fails to cure any such default with the Company upon thirty (30) days notice the Company may terminate this Agreement and as outlined in 4, G above.

5. No waiver by the Company of any default of the Agent shall constitute a waiver of any other default and shall not preclude the Company from thereafter requiring strict compliance with this Agreement. Subsequent acceptance by the Company of the payments due it hereunder shall not be deemed to be a waiver by the Company of a preceding breach by the Agent.

6. Should any provision of this Agreement be construed or declared to be invalid, such decision shall not affect the validity of any remaining portion which shall remain in full force and effect as if this Agreement had been executed with such invalid portion eliminated.

7. No previous course of dealing or usage in the trade not specifically set forth in this Agreement shall be admissible to explain, modify or contradict this Agreement.

8. Whenever notice is required under the terms of this Agreement, the notice shall be given in writing and sent by registered or certified mail. All such notices to the Agent shall be addressed to his last

known office address or home address and be deemed received on the fourth day following the date it was deposited in the mail.

9. All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context or sense of the Agreement or any section, paragraph or clause herein may require, as if such words had been fully and properly written in the appropriate number and gender.

10. The recitals and preamble set forth above are hereby incorporated into and made a contractual part of the covenants of this Agreement.

11. This Agreement contains the entire agreement of the parties and there are no representations, inducements, promises, agreements, arrangements, or undertakings, oral or written, between the parties hereto other than those set forth and duly executed in writing. No modification of this Agreement shall be binding upon either party unless the same has been made in writing and duly executed by both parties to this Agreement.

12. Each of the parties hereto acknowledges that he has read and understands this Agreement and consents to be bound by all of terms and conditions.

13. The development agent acknowledges the following:

**(A) AGENT HAS CONDUCTED AN INDEPENDENT INVESTIGATION OF THE COMPANY'S OPERATION, AND RECOGNIZES THAT THE BUSINESS CONTEMPLATED BY THIS AGREEMENT INVOLVES BUSINESS RISKS AND THAT THE SUCCESS OF THE BUSINESS IS DEPENDENT UPON THE PERSONAL EFFORTS OF THE DEVELOPMENT AGENT. THE COMPANY EXPRESSLY DISCLAIMS THE MAKING OF, AND DEVELOPMENT AGENT ACKNOWLEDGES, THAT NO GUARANTEE HAS BEEN GIVEN AS TO THE POTENTIAL SALES VOLUME OR PROFIT OF THE BUSINESS CONTEMPLATED BY THIS AGREEMENT.**

**(B) AGENT HAS HAD THE OPPORTUNITY TO REVIEW THE COMPANY'S UNIFORM FRANCHISE OFFERING CIRCULAR AT LEAST 10 DAYS PRIOR TO SIGNING THIS AREA DEVELOPMENT AGENT AGREEMENT.**

**(C) THIS AGREEMENT CANNOT BE AMENDED BY ANY ORAL STATEMENT, BUT ONLY BY A WRITTEN INSTRUMENT SIGNED BY ALL PARTIES TO THIS AGREEMENT.**

The parties stating that they have read and understand the full contents of this Area Development Agent Agreement hereby sign and deliver this Agreement.

**NEW YORK NY FRESH DELI FRANCHISE, INC.**

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

**AREA DEVELOPMENT AGENT:**

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